



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

May 21st, 2019

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **May 21st, 2019, at 6:00 p.m.** in the Assembly Room of the County Complex.

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

PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege; Ashley Kazmucha, Secretary

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Melissa Mullins Mischke asked for approval of the meeting minutes of April 16th, 2019.

Dwayne Hogan made a motion to approve the meeting minutes of April 16th, 2019 as presented.

Earl Cunningham seconded.

Motion carries 5-0.

Petitions:

1. Petition for Variance of Developmental Standards for Ozinga Materials Inc. for a one-hundred-foot (100') lattice style self-supporting wireless communication facility for broadband internet. There will be no co-locations on the tower and no shelters or buildings at the base of the tower. This property is located at 2626 W 1650 S, Hanna, IN., Prairie Twp., zoned A on thirty (30) acres. Parcel 46-18-27-300-014.000-059. This was tabled from last month due to lack of airport clearance.

Attorney Biege stated notice is adequate.

Melissa Mullins Mischke made a motion for the petition to be removed from table.

Earl Cunningham seconded.

Motion carries 5-0.

Pat McColly stated broadband is needed in the area and will be supported by additional towers within a ten-mile radius.

No remonstrators present.

Glen Minich made a motion to approve Petition for Variance of Developmental Standards for Ozinga Materials Inc. for a one-hundred-foot (100') lattice style self-supporting wireless communication facility for broadband internet. There will be no co-locations on the tower and no shelters or buildings at the base of the tower. This property is located at 2626 W 1650 S, Hanna, IN., Prairie Twp., zoned A on thirty (30) acres.

Dwayne Hogan seconded.

All approved. Motion carries 5-0.

2. Petition for Variance of Developmental Standards for John Lesley to build an accessory structure fifty feet by seventy-two feet (50' x 72') for residential use with the height of twenty-four feet (24') to peak instead of the maximum eighteen feet (18'). The property is located at 9051 W. St. Rd. 2, La Porte, IN., New Durham Twp., zoned A on 1.01 acres. Parcel 46-09-16-400-047.000-027.

Attorney Biege stated notice is adequate.

John and Stacey Lesley stated their address is 9051 W State Road 2, La Porte, IN.

Mr. and Mrs. Lesley stated that the existing structure will be removed and replaced with the new accessory structure which will have electricity and match the home aesthetically. A picture of the proposed building was supplied to the board.

No remonstrators present.

Dwayne Hogan made a motion to approve the Petition for Variance of Developmental Standards for John Lesley to build an accessory structure fifty feet by seventy-two feet (50' x 72') for residential use with the height of twenty-four feet (24') to peak instead of the maximum eighteen feet (18'). The property is located at 9051 W. St. Rd. 2, La Porte, IN., New Durham Twp., zoned A on 1.01 acres

Glen Minich seconded.

Earl Cunningham asked for clarification that the accessory will be amended not to be used residentially since the land is zoned A.

Annemarie Polan, Building Commissioner, stated that because it is zoned Ag, the distinction must be made on the petition that the use is for residential and not Ag, per our ordinance

Attorney Biege said he would note in the findings of fact that the accessory would be for storage use only.

All approved. Motion carries 5-0.

3. Petition for Variance of Developmental Standards for John Meadway to construct a carport twenty feet by thirty feet (20' x 30') without having a residence and to be used for personal storage. The property is located between 4752 E. and 4784 E. 100 S., La Porte, IN., Pleasant Twp., zoned A on 2 acres. Parcel 46-11-11-200-007.000-057.

Attorney Biege stated notice is adequate.

John Meadway stated his address is 306 Niles Street, La Porte, IN.

Mr. Meadway stated that he wants to build a steel structure with an attached carport totaling thirty feet by thirty feet (30'x 30'). The floor will be gravel. The structure would not initially have electricity. He stated how he intends to buy the adjacent property in the upcoming months to make his primary residence.

No remonstrators present.

Melissa Mullins Mischke stated a concern of the possibility for disruptive activity on the property that would disturb the neighbors.

Mr. Meadway assured that it would strictly be used for storage and not for shenanigans.

Earl Cunningham made a motion to approve the Petition for Variance of Developmental Standards for John Meadway to construct a carport thirty feet by thirty feet (30' x 30') without having a residence and to be used for personal storage. The property is located between 4752 E. and 4784 E. 100 S., La Porte, IN., Pleasant Twp., zoned A on 2 acres.

Dwayne Hogan seconded.

Melissa Mullins Mischke advised to obtain an address for the property from the building commission if the petition is granted.

All approved. Motion carries 5-0.

4. Petition for Variance of Developmental Standards for Toby H & Jennifer L Schweizer for construction of a third (3rd) accessory structure sixty feet by two hundred thirty feet (60' x 230') with an indoor horse arena for personal use, with a height of twenty feet (20') instead of the maximum eighteen feet (18'). This property is located at 4059 N. 350 E., Rolling Prairie, IN., Kankakee Twp., zoned R1B on 5 acres. Parcel 46-07-10-476-003.000-052.

Attorney Biege stated there is not an affidavit of publication present.

Annemarie Polan stated she does not have a copy of the publication.

Attorney Biege and Melissa Mullins Mischke state that without proof of publication, this petition will be heard at the end of the meeting allowing the petitioner time to find the affidavit.

5. Petition for Variance of Developmental Standards for Dave Lewis (Wheelchair Shop, Inc.) to add onto the existing building ten feet (10') which encroaches the side ten feet (10') setback (south side). This property is located at 3944 N. Frontage Road, Michigan City, IN., Coolspring Twp., zoned B3 on .195 acres. Parcel 46-05-17-200-007.000-046.

Attorney Biege stated notice is adequate.

Dave Lewis stated his address is 3944 N Frontage Road, Michigan City, IN. (Wheelchair Shop)

Dave Lewis stated he is wanting to extend his building ten feet (10') over to the property line which will end approximately on the line. He also wanted to make sure it would be ok with neighboring the Orak Shrine. He claimed he has a shed on their property that they are ok with as long as he donates to their cause. He wants to remove this shed and extend his building to provide him with more work space. He has not had a survey done on the property.

Melissa Mullins Mischke stated there is an abundance of vehicles at the Wheelchair Shop.

Dave Lewis stated that the majority of the vehicles are wheelchair vans; half of the vehicles are there being serviced, whereas the other half are for sale.

Remonstrators:

Don Plumber representing Orak Shrine stated his address is 4241 W. Crestview La Porte, IN.

Don Plumber, on behalf of Orak Shrine, opposed the petition. He has supplied a survey that was done on the Orak Shrine property. He claimed Mr. Lewis has been encroaching on their property. The survey showed that Mr. Lewis only has 8.21 feet to the property line and not the ten feet (10') as he claimed. They are also concerned with aesthetics; the shop looks like a used car lot. There is an agreement between the Orak Shrine attorney and Dave Lewis's attorney that states

that Dave Lewis would not encroach on their property and he has done so for the last year and a half. The cars park over twenty feet (20') from the property line. They do not want this petition granted in fear that it will lead to an abuse of privilege on their property. Contractors employed by Mr. Lewis recently damaged the grounds leaving imperfections.

Wayne Hodges, Jr. stated his address is 5520 Jay Street, Merrillville, IN.

Wayne Hodges, Jr. stated he is there representing Orak Shrine as a current board member.

Don Plumber had a signed agreement from Dave Lewis stating that he would not encroach on their property. The survey was done by Global in 2017 when the first confrontation arose.

Don Plumber noted that between the building and the current shed is Mr. Lewis's gas meter which will also have to be moved.

Don Plumber stated the Orak Shrine Board does not intend to sell any land to Dave Lewis.

Dwayne Hogan made a motion to deny the Petition for Variance of Developmental Standards for Dave Lewis (Wheelchair Shop, Inc.) to add onto the existing building ten feet (10') which encroaches the side ten feet (10') setback (south side). This property is located at 3944 N. Frontage Road, Michigan City, IN., Coolspring Twp., zoned B3 on .195 acres. There is not substantial enough property to extend his building without encroaching on the Orak Shrine property.

Greg Szybala seconded.

All Denied. Motion carries 0-5.

6. Petition for Variance of Developmental Standards for Theodore Hanson for construction of a second (2nd) accessory structure thirty feet by sixty-two feet (30' x 62') and placed to the side of the home instead of the rear. This property is located at 17 N. Williams Rd, Westville, IN., Coolspring Twp., zoned A. Parcel 46-05-31-300-040.000-046.

Attorney Biege stated notice is adequate.

Theodore & Sandra Hanson stated their address is 17 N. Williams Road, Westville, IN.

Mr. Hanson stated the second accessory structure would now be placed to the side, but also behind the house. He notes the septic is directly behind the house.

Attorney Biege stated they will no longer need a variance.

Glen Minich advised they will need to go to the building commission to obtain a second driveway permit.

Melissa Mullins Mischke dismissed the petition.

7. Petition for Variance of Use for David Kesling (Seller) & Journey Church Ministries, Inc. (Buyer) for construction of a building to be a church facility. This property is located next to 1755 N. 500 W., La Porte, IN., Center Twp., zoned A on 12.24 acres. Parcel 46-06-29-100-019.000-042 & 46-06-30-200-020.000-042.

Attorney Biege stated notice is adequate.

Sheryl Lewis stated her address is 3598 W. Shultz Road, La Porte, IN.

Sheryl stated she is the realtor and a member of Journey Church. She is representing the buyer. She stated how Journey Church is currently renting a property owned by Indiana Paging Network and have been tenants there for the past four years. They intended for the rental to be temporary and have since invested money into maintaining the building as it was in disarray. They would like to purchase the property on 500 West to build a church that would benefit the community and they intend to build a quality building. The parcel was chosen for its' large size. They intend to maintain the surrounding greenery and possibly put in a retention pond to help with the water issues on the property. They estimate the church project cost to be between 1.5-2 million dollars. The purchase is contingent upon the petition being approved.

Attorney Biege stated that the extension for the proposed use variance is negligible as the variance is open ended.

Remonstrators:

Ronald J. Ragains stated his address is 1800 N. 500 W., La Porte, IN.

Ronald J. Ragains has supplied pictures showing his concerns about the intersections and the drainage issues. He stated the water from the intersection of Johnson Road and the Summit Farm runs down and settles on the property located at 1906 500 W. and 1800 N. 500 W. and the Edwards property just south of the parcel. He stated he has had water in his driveway two feet deep in rainy seasons and during the snow melt. He stated how he intends to spend thousands of dollars this year to try and remediate some of the water issues. He stated the intersections at Johnson Road, 250, and 500 W. are troublesome as well as the intersection at the toll road overpass which is 500 W. and 150. He stated his opposition is because there is not a plan to fix the water issues in the neighborhood. He also stated that the church is very active with a minimum of fifteen meetings per month and it's a potential disturbance to their quiet neighborhood.

Melissa Mullins Mischke stated that if approved they would work with the building department, MS4, and the Highway Department to address drainage and water run-off. She stated that the water issues have to be solved separately per property.

Tom Edwards stated his address is 1656 N. 500 W. which is across the street from the proposed church.

He stated he is disappointed in church leadership for not taking the opportunity to discuss the petition personally with the surrounding homeowners; rather they received the mail notices only. His main concern is the drainage. He stated the development is commercial. He is weary this would lead to more commercial businesses in that area which would increase traffic. He is also concerned with the future church patrons adding to the already busy roadways. He stated the south end of the property is a wooded wetland. He proposed an additional lane on 500 West.

Sarah Lane stated her address is 5109 W. 150 N.

Sarah Lane stated she has a pond that floods constantly; the drainage is a concern. She stated that she is concerned about the noise possibilities and increased traffic.

Tara Grinnell stated her address is 4997 W. 150 N., La Porte, IN.

Tara Grinnell is concerned for the traffic issues as she has been a witness to many accidents at the intersections of Johnson Road and 150 N.

Sally Swanson stated her address is 1800 N. 500 W., La Porte, IN.

Sally Swanson stated the roads are in disrepair. She states the intersections are dangerous for merging considering there is a bridge and a bend. She stated these roads are not set up for any amount of traffic. She is also concerned with the drainage issues. She also stated the land being removed from the county tax roll with the intended use being a church.

Earl Cunningham agreed with the traffic and water concerns.

Melissa Mullins Mischke concurred.

Sheryl Lewis stated the remonstrators concerns are valid. She stated that with the development of the church she intends to help solve the water issues stating the final development plan will address and improve the issues. She stated traffic cannot be predicted accurately, but that the church has about 40-50 cars present on a Sunday service, 6-8 cars on Monday, and 6 cars on Wednesday. She stated there is a Sunday service (two services on holidays), Monday Service, Wednesday Service, Thursday game night, and every other Sunday afternoon is a youth group composed of high schoolers. She expects the church will grow in time, but they want to be community oriented. She stated they don't want to be a detriment to the neighborhood, but rather be embraced and vice versa.

Melissa Mullins Mischke suggested that this petition be postponed until more planning and research be done on the property and the intended building. She stated that the neighbors should be more included in these processes.

Sheryl Lewis stated an offer was made on the property, but that it is contingent on the variance being granted. She stated it would cost thousands of dollars to perform due diligence on the property to ultimately not be granted the variance.

Earl Cunningham stated that if they cannot meet all the requirements, they may end up buying the land and unable to build the church. He stated it would be best to invest a little now than to purchase the land and not be able to develop it as Journey Church wants.

Attorney Biege stated that the water issues will never be solved as a whole, but that if the petition is granted it would not trigger a sequence of events to fix the problem. He stated the homeowners need to individually contact MS4 and the Highway Department to undertake their own personal water issues.

Earl Cunningham asked Attorney Biege if the variance is approved and Journey Church cannot get a septic, would that deem the property unusable for a church.

Attorney Biege stated yes, it will be unusable.

Earl Cunningham suggested investing now to see if the project is possible as it will be less expensive than buying the property in case it cannot be developed.

Dwayne Hogan agreed.

Mike Grantham stated he represents the seller on the property and it is subject to the board's approval as well as several other issues and requests an extension.

Dwayne Hogan stated their current plan doesn't hold water; no pun intended.

Greg Szybala made a motion to postpone the Petition for Variance of Use for David Kesling (Seller) & Journey Church Ministries, Inc. (Buyer) for construction of a building to be a church facility. This property is located next to 1755 N. 500 W., La Porte, IN., Center Twp., zoned A on 12.24 acres to no later than October 15th, 2019.

Glen Minich seconded.

All approved. Motion carries 5-0.

8. Petition for Variance of Developmental Standards for Douglas & Susan Barnes to request the splitting of 14.78 acres into two parcels, one having three hundred feet (300') of road frontage and two acres and the other having one hundred feet (100') of road frontage and 12.78 acres, with the 12.78 acres being deemed a buildable lot. This property is located at 2232 W. 800 N., Michigan City, IN., Springfield Twp., zoned A with 14.78 acres. Parcel 46-02-27200-010.000-062.

Attorney Biege stated notice is adequate.

Susan Barnes stated her address is 2232 W. 800 N., Michigan City, IN.

Susan Barnes stated she wants the property split to sell the larger portion for someone to build upon with one hundred feet (100') of road frontage. She stated the smaller remaining lot with proposed three hundred feet (300') of road frontage is where her primary residence is located.

No remonstrators present.

Glen Minich asked why there is not a two hundred feet (200') split of the road frontage which would forego the need for a variance.

Susan Barnes stated that she does not want anybody building too close to her home, which explains the uneven split.

Attorney Biege suggested a deed restriction to prevent new landowners from building too close.

Glen Minich asked if a survey was available to verify frontage.

Susan Barnes confirmed four hundred feet (400') of frontage.

Earl Cunningham asked if the additional one hundred feet (100') contain the septic or well.

Susan Barnes stated it may involve the well.

Board stated the well head is near the home.

Melissa Mullins Mischke stated a survey or a drawing with the actual split be supplied at a future date and suggested tabling the petition.

Earl Cunningham suggested Mrs. Barnes obtain counsel.

Glen Minich suggested not to table and make a decision. Glen stated that she is creating her own hardship.

No remonstrators present.

Glen Minich made a motion to deny the Petition for Variance of Developmental Standards for Douglas & Susan Barnes to request the splitting of 14.78 acres into two parcels, one having three hundred feet (300') of road frontage and two acres and the other having one hundred feet (100') of road frontage and 12.78 acres, with the 12.78 acres being deemed a buildable lot. This property is located at 2232 W. 800 N., Michigan City, IN., Springfield Twp., zoned A with 14.78 acres.

Greg Szybala seconded.

All denied. Motion carries 0-5.

9. Petition for Variance of Developmental Standards for Robert McMeen, Leah Dickey, & Todd McMeen for the construction of a second (2nd) dwelling to care for their elderly parents. This property is located at 579 W. 900 N., La Porte, IN., Springfield Twp., zoned A on 7.2 acres. Parcel 46-02-13-300-020.000-062.

Withdrawn before meeting.

10. Petition for Variance of Developmental Standards for Brandon Feasel to construct a twenty-four feet by thirty-two feet (24' x 32') pole barn on the side of the house instead of the rear. This property is located at 1322 S. Walnut St., La Porte, IN., Scipio Twp., zoned R1B. Parcel 46-10-10-276-019.000-060.

Attorney Biege stated notice is adequate.

Brandon Feasel stated his address is 1322 S. Walnut St., La Porte, IN.

Brandon Feasel stated he wants to construct a twenty-four feet (24') by thirty-two feet (32') pole barn on the side of the lot since being on a corner lot he has no room behind his home. Construction had been started on this project, but he was red-flagged and ceased all work henceforth. He stated he may put in electric. The pole barn will be for storage only. The original additional structure located in the rear was temporary and removed after winter.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Brandon Feasel to construct a twenty-four feet by thirty-two feet (24' x 32') pole barn on the side of the house instead of the rear. This property is located at 1322 S. Walnut St., La Porte, IN., Scipio Twp., zoned R1B.

Earl Cunningham seconded.

All approved. Motion carries 5-0.

11. Petition for Variance of Developmental Standards for Joseph & Theresa Hovaniec to construct a second (2nd) accessory structure with a height of twenty-five feet (25') instead of the maximum eighteen feet (18') and to the side of the home instead of the rear. This property is located at 7531 N. Elder Lane, New Carlisle, IN., Hudson Twp., zoned R1B. Parcel 46-04-28-157-001.000-050.

Attorney Biege stated mailing receipts do not have names. He confirmed publication and proof of mailings for the same number of people that required notice.

Board had discretion.

Attorney Biege asked if petitioners can affirm that all the adjoining landowners were notified.

Floyd Gilbert stated his address is 9958 N. 375 W., Michigan City, IN.

Floyd Gilbert confirmed the mailings were sent to the adjoining homeowners.

Floyd Gilbert stated the homeowners he is contracted by wants a pole barn forty feet (40') by forty feet (40') with a height of twenty-five feet (25') rather than the maximum of eighteen feet (18') allowed. The variance would allow for storage of an RV and a pontoon. He stated the homeowners will be wanting electricity and maybe water. The building will be for storage purposes only. He stated the exterior will be vinyl siding with asphalt shingles and will blend with the existing home. He stated some pine trees will be removed to make room for the pole barn.

No remonstrators present.

Dwayne Hogan made a motion to approve the Petition for Variance of Developmental Standards for Joseph & Theresa Hovaniec to construct a second (2nd) accessory structure with a height of twenty-five feet (25') instead of the maximum eighteen feet (18') and to the side of the home instead of the rear. The structure will have electricity and water. The structure will blend with the existing home and be used for storage purposes only. This property is located at 7531 N. Elder Lane, New Carlisle, IN., Hudson Twp., zoned R1B.

Glen Minich seconded.

All approved. Motion carries 5-0.

12. Petition for Variance of Developmental Standards for Cynthia Brigman Blum to construct a new home with a setback of ten feet (10') instead of the required twenty-five feet (25'). This property is located at 3402 Iroquois Trail, Michigan City, IN., Michigan Twp., zoned R1B. Parcel 46-01-12-327-011.000-021.

Attorney Biege stated notice is adequate.

John Spalding of Spalding Design Group stated his address is 106 Lincolnway East, Mishawaka, IN.

Melissa Mullins Mischke stated there is currently a home on the parcel.

John Spalding supplied site plans to the board. He stated that the current home will be completely replaced and have a new septic.

Attorney Biege confirmed that the variance will only be for the front setback which the new proposed home patio and porch encroach upon.

John Spalding stated there is a zoning stipulation that allows for the shorter road to have a side yard in R1E.

Melissa Mullins Mischke stated that area in question has homes that have less than adequate side setbacks.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Cynthia Brigman Blum to construct a new home with a setback of ten feet (10') instead of the required twenty-five feet (25'). This property is located at 3402 Iroquois Trail, Michigan City, IN., Michigan Twp., zoned R1B.

Dwayne Hogan seconded.

Earl Cunningham noted there are no remonstrators because most of the neighbors are probably in violation of the setbacks.

Melissa Mullins Mischke agreed.

All approved. Motion carries 5-0.

4. Petition for Variance of Developmental Standards for Toby H & Jennifer L Schweizer for construction of a third (3rd) accessory structure sixty feet by two hundred thirty feet (60' x 230') with an indoor horse arena for personal use, with a height of twenty feet (20') instead of the maximum eighteen feet (18'). This property is located at 4059 N. 350 E., Rolling Prairie, IN., Kankakee Twp., zoned R1B on 5 acres. Parcel 46-07-10-476-003.000-052.

Attorney Biege suggested to table this petition to the next month as Mr. Schweizer was unable to make it back before the meeting was over.

Earl Cunningham made a motion to postpone the Petition for Variance of Developmental Standards for Toby H & Jennifer L Schweizer for construction of a third (3rd) accessory structure sixty feet by two hundred thirty feet (60' x 230') with an indoor horse arena for personal use, with a height of twenty feet (20') instead of the maximum eighteen feet (18'). This property is located at 4059 N. 350 E., Rolling Prairie, IN., Kankakee Twp., zoned R1B on 5 acres.

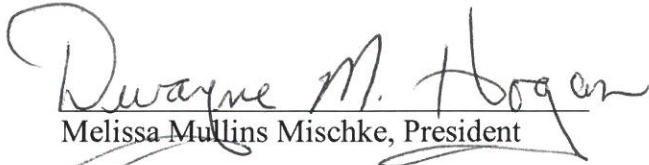
Dwayne Hogan seconded.

All approved. Motion carries 5-0.

NOTE: REMONSTRATORS PRESENT

(They inquired to know what is meant by “personal use”.)

There being no further business, meeting adjourned at 7:45 p.m.


Melissa Mullins Mischke, President


Annemarie Polan, Recording Secretary