

**LAPORTE COUNTY
BOARD OF ZONING APPEALS**

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

January 15, 2013

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, December 18, 2012, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: Dwayne Hogan Wally Pritz
 Glen Minich Melissa Mullins Mischke

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege;
 Darlene Pavey, Secretary

The Pledge of Allegiance.

Dwayne Hogan entertained a Motion for the approval of meeting minutes from December 18, 2012.

Melissa Mullins Mischke made a Motion to approve the meeting minutes as presented. Glen Minich seconded. All approved. Motion carried 4-0.

ELECTIONS:

Dwayne Hogan said that we're going to open the January meeting for election of officers.

Melissa Mullins Mischke made a motion for Dwayne Hogan as President. Wally Pritz seconded.

Dwayne Hogan asked if there are any other nominations.

All approved. Motion carried 4-0.

Dwayne Hogan asked for a nomination for Vice President.

Dwayne Hogan nominates Melissa Mullins Mischke. Wally Pritz seconded.

Dwayne Hogan asked if there are any more nominations.

All approved. Motion carried 4-0.

Dwayne Hogan thanked Paul Zona and Bill Eaton for their continued service on this board for many... many.... many.... years for the BZA. As part of the board and president for many years and other functions, he would like to thank them for all their hard work and efforts that they put into this and have them keep in touch with us.

- 1. The Petition for Laura & Rich Ostergren** to move his existing garage that will encroach upon front setback by 15' feet and side setback by 5' feet. This property is located at 13-15 Elm Drive, La Porte, Center Twp, zoned R1B. **(This matter was tabled from the November 20, 2012 meeting to December 18, 2012 at 6:00 p.m. This matter was tabled from December 18, 2012 meeting to January 15, 2013 at 6:00 p.m.)**

Dwayne Hogan said that Petition No. 1 has been withdrawn.

- 2. The Petition for Communications Properties, LLC**, by counsel, Ralph F. Howes for a Special Exception to erect a wireless communication tower. The proposed tower would be self supporting and would be 350 feet in height. This property is situated at the intersection of Johnson Road, County Road 500 West and County Road 250 North, zoned B-2. **(This matter is tabled to December 18, 2012 meeting at 6:00 p.m.) (This matter was tabled from the December 18, 2012 meeting to January 15, 2013 at 6:00 p.m.)**

Melissa Mullins Mischke asked to move this Petition to the end.

- 3. The Petition for Family Express Corporation** for a Special Exception to be modified operating times to permit operation from 5:00 a.m. to 12:00 a.m. This property is located at 999 South 500 West, La Porte (Pinola), IN, Scipio Twp., zoned IR.

Attorney Biege said that certified on the mailing notice on the adjoining property owners is correct, however, apparently Family Express has yet received their proof of publication from the news paper. Attorney Biege said that he would suggest that if you move forward with the proviso that publication be provided to the Building Department.

Todd Etzler, General Counsel for Family Express Corporation. Todd's address is 213 South State Road 49, Valparaiso, Indiana.

Mr. Etzler said that the property they're talking about this evening is 999 South 500 West, in Pinola. Mr. Etzler said that this is an existing convenience store at the northeast corner of the site

and a little over two acres of land. Mr. Etzler said that it has been operated that way for many years.

Mr. Etzler said that they acquired this site the second half of 2012. Mr. Etzler said that they have done a little bit of remodeling on the site and opened and operating very heavily there. Mr. Etzler said that when they acquired the site they determined that there was many years ago a restriction placed on the site when they started operating and the business hours were restricted until nine o'clock (9:00 p.m.) in the evening and starting at six (6:00 a.m.) or seven (7:00 a.m.) in the morning. Mr. Etzler said that since that time and during the operation of this business, the public has asked that they open up earlier and over the years they just opened up earlier.

Mr. Etzler said that when they came in they decided that they would follow the rules and then come before the board and ask permission to extend those hours. Mr. Etzler said that since they started they have restricted the hours, but the public came in and said that they needed us here earlier because the factories apparently run earlier and the people can't come here to get their coffee. Mr. Etzler said that they're asking for an extension of the hours from 5:00 a.m. to 12:00 a.m., which is midnight.

Mr. Etzler said that they have many stores throughout Northern Indiana and only a few of them are twenty-four (24) hours. Mr. Etzler said that they base their hours on what the neighborhood is asking them to stay open. Mr. Etzler said that if they're not getting any business and no one wants us open after ten o'clock (10:00 p.m.), they don't stay open after ten o'clock (10:00 a.m.). Mr. Etzler said that these hours will more than take care of what they need at this location and he's not expecting to have to have any expansion any time soon unless there's a huge residential development and they all want greater hours.

Dwayne Hogan asked if there were any questions from the board.

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

No Remonstrators:

Dwayne Hogan asked Mr. Etzler if this would be from 5:00 a.m. to midnight seven (7) days a week.

Mr. Etzler stated yes.

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

Melissa Mullins Mischke said that she drives through there and she would like to see it open at 5:00 a.m. as well.

Dwayne Hogan said that he will entertain a Motion.

Melissa Mullins Mischke made a Motion that the Petition for Family Express Corporation to modify their operating hours from 5:00 a.m. to 12:00 a.m., midnight seven days a week be granted, with the stipulation that they provide proof of publication in the news paper to the Building Commission Office. This property is located at 999 South 500 West, La Porte (Pinola), Scipio Twp., zoned IR.

Wally Pritz and Glen Minich seconded.

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

All approved. Motion carried 4-0.

4. The Petition for Richard & Patricia Walters for continued placement of a mobile home. This property is located at 10304 N. 400 E. La Porte, IN., Galena Twp, zoned Agricultural.

Attorney Biege said that we have an affidavit of publication that is correct; we do not have signed certified mail cards, however we have receipts which indicates an attempt to provide notice to the adjoining property owners.

Dwayne Hogan asked for name and address for the record.

Kim Allen, 10304 N., 400 E., La Porte, Indiana.

Dwayne Hogan asked Ms. Allen if she's representing the Petition for Richard & Patricia Walters.

Kim Allen said yes and that she lives there.

Melissa Mullins Mischke asked Ms. Allen if she lived in the mobile home.

Kim Allen stated yes.

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

Kim Allen said that she would like to continue to stay there.

Dwayne Hogan asked Ms. Allen if this is her first variance.

Kim Allen said that she thinks that they got two others.

Dwayne Hogan asked if that was six years ago, three years ago and now.

Kim Allen stated yes.

Dwayne Hogan asked Ms. Allen if the intent of her variance is to stay there or to build a home there.

Kim Allen said just to stay in the trailer.

Dwayne Hogan asked Ms. Allen the year of the trailer.

Kim Allen said that Richard Walters thinks that it is a 1993.

Melissa Mullins Mischke asked Ms. Allen if the property owners are Richard & Patricia Walters.

Kim Allen stated yes.

Melissa Mullins Mischke asked Ms. Allen if she is a relative.

Kim Allen said that she is their daughter.

Dwayne Hogan asked Ms. Allen how long she has resided there.

Kim Allen stated ten (10) years.

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

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

Melissa Mullins Mischke asked Ms. Allen to identify on the map where the mobile home is located.

Ms. Allen and Richard Walters up at the bench going over the site plan.

Board members speaking amongst themselves.

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

Wally Pritz made a Motion to approve the Petition for Richard & Patricia Walters for continued placement of a mobile home. This property is located at 10304 N. 400 E., La Porte, IN, Galena Twp., zoned Agricultural.

Melissa Mullins Mischke asked Ms. Allen if her intention is to build a house at this location.

Ms. Allen stated no.

Melissa Mullins Mischke asked Ms. Allen if there is a reason she doesn't put it in a mobile home park.

Kim Allen said that she has two kids; one is in the hospital a lot and her mom and dad live next door. Ms. Allen said that she works full time and her mom takes care of her daughter.

Dwayne Hogan asked for a second.

Melissa Mullins Mischke seconded.

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

Melissa Mullins Mischke said that she would like to amend the Motion to read three (3) years.

All approved. Motion carried 4-0.

- 5. The Petition for David & Linda Pradzaid** to construct a home ten (10') feet from rear setback instead of fifty (50') foot setback line. This property is located at 138 N. Otis Road, Westville, IN, New Durham Twp., zoned Agricultural.

Legal work complete. No remonstrators present.

Dwayne Hogan asked for name and address for the record.

Mark Villa from La Porte Housing Specialist just simply here in an advisory capacity with his clients, David and Linda Pradzaid.

Dwayne Hogan asked for an address.

Mr. Villa stated 138 North Otis Road, Otis, Indiana 46391.

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

Mr. Villa said that they want to place a modular on their property and the way that the property is designed there's a hill on the property and there is a pond. Mr. Villa said to facilitate the use of the property and the enjoyment of the property; they need to turn the home a little bit. Mr. Villa said that technically when they turn it, it kind of looks like a side yard even through the county calls it a rear yard. Mr. Villa said that there is nothing behind that property but open field and as you can see, none of the neighbors have contested this. Mr. Villa said that they are requesting the ten (10') feet. Mr. Villa said that they want to put it in a place that will be better for construction and they wouldn't have to bring in a lot more fill.

Melissa Mullins Mischke asked Mr. Villa if there was an existing house on the property.

Mr. Villa stated no. Mr. Villa said that there are a couple of out buildings on the property.

Melissa Mullins Mischke asked Mr. Villa if they're using those buildings for storage.

Linda Pradziad said that is their weekend campground in the summer.

Melissa Mullins Mischke said that would explain the picnic tables. Melissa asked Ms. Pradziad if they use that property on the weekends and if this is going to be their primary residence.

Linda Pradziad said that this is going to be their primary residence.

Melissa Mullins Mischke told Ms. Pradziad that they have some pictures from the beginning of the month that Annemarie Polan went out and took. Melissa Mullins Mischke asked if there are going to be any other out buildings. Melissa said that there is a lot of stuff laying around on this property.

Mr. Villa said that there will be a garage attached to the home.

Melissa Mullins Mischke asked Mr. Villa if there is going to be any other buildings to store some of this stuff when they're not using this.

Linda Pradziad said that it's already storage now. Ms. Pradziad said that they hope to get rid of some of that stuff.

Dwayne Hogan told Ms. Pradziad that there is a lot of stuff on this property.

Melissa Mullins Mischke said that there looks to be a semi trailer size; is that your storage?

Linda Pradziad said that is where they go to get out of the rain.

Melissa Mullins Mischke said that she would like to see some of this stuff concealed a little bit better.

Mr. Villa said that there are some pine trees that are along the front of the property and it is somewhat private.

Dwayne Hogan asked Mr. Villa how much property is there.

Mr. Villa said three and a half acres.

Wally Pritz said that he thinks that if it was cleaned up a little bit it would be nice.

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

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

Wally Pritz said that if the board approves for building this modular, we could ask that they clean it up a little bit.

Glen Minich asked if the adjoining property is an abandoned railroad.

Linda Pradziad said that there are no tracks on it anymore.

Glen Minich asked Ms. Pradziad who has title to that railroad.

Linda Pradziad said it is the farmer next door.

Glen Minich said that normal procedure on an abandoned railroad is that each owner on each side would own to the center, or have the right to the center of that railroad.

Attorney Biege said for the most part. Attorney Biege said that there are private individuals listed by the recorder's office as adjoining property owners. Attorney Biege said that he would assume that the railroad transferred to somebody in the past.

David Pradziad said that Mr. Foldenauer bought it.

Board members speaking amongst themselves.

Dwayne Hogan asked Mr. Villa if there are other buildings on that property that are considered homes, or mobile homes.

Linda Pradziad stated no.

Wally Pritz asked Mr. Villa what kind of a septic permit would be permitted.

Mr. Villa said that he already has the septic permit.

Wally Pritz asked if it is a mound system.

Mr. Villa said that it is perimeter drain. Mr. Villa said that it has been approved already by the county.

Dwayne Hogan asked if the well would be in the front.

Mr. Villa stated yes.

Dwayne Hogan asked if there were any questions or concerns.

Dwayne Hogan said that he will entertain a Motion.

Wally Pritz made a Motion to approve this for a modular home to be set on this property.

Attorney Biege asked if there would be any conditions on removal.

Wally Pritz said that he would like to see a removal of some of the debris on this property. Mr. Pritz said that he would say a good percentage. Mr. Pritz said that he doesn't know how we classify in respect to how much.

Board members going over site plan.

Glen Minich asked Annemarie Polan that the status of this becoming a residential property, there should really only be one out building allowed. Is that correct?

Everyone speaking at the same time.

Mr. Villa said that with a new home and a two stall garage, they should be able to store stuff out in the garage.

Dwayne Hogan asked Ms. Pradziad how long they have had that property.

David Pradziad said he has had that property since 1999.

Attorney Biege said that if you're going to consider ---- he's going to call it a trailer, we should give them a variance for that, or give them a period of time to remove one of the trailers.

Attorney Biege said that trailer is not in compliance with code. Attorney Biege said that it is not subject to a petition today, but he recommends that we take care of it so Annemarie isn't put in a position where she has to enforce it some point in the future.

Dwayne Hogan said that we're going to amend this Motion.

Wally Pritz said that he would like to amend the Motion to let David & Linda Pradziad to construct a home ten (10') feet from the rear setback instead of fifty (50') feet from the setback line. Property is located at 138 N. Otis Road, Westville, IN, New Durham Twp., zoned Agricultural and amend it to give David & Linda Pradziad a variance for the trailer that is on the property.

Annemarie Polan, Building Commissioner asked if the petitioners were going to keep the semi trailer there indefinitely.

David Pradziad said that they're going to get rid of the trailers. Mr. Pradziad said that he's going to move those trailers out of there.

Melissa Mullins Mischke asked Mr. Pradziad how long he thinks it will take for him to get the trailers out of there.

Mr. Pradziad said that depends when we get the pole barn up. Mr. Pradziad said that it might be a year or two. Mr. Pradziad said that they have to put a house up first.

Glen Minich asked if we could make the Motion contingent that the out buildings would be removed within a year.

Mr. Pradziad said maybe a couple of years.

Wally Pritz said how about two years.

Melissa Mullins Mischke said that she's definitely not comfortable leaving the storage trailers there.

Wally Pritz said that he would amend the Motion to have the trailers removed in two (2) years.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 4-0.

6. The Petition for Gregory Polanek & Eileen Murphy to construct a storage building thirteen (13') feet from road easement instead of twenty-five (25') foot as required by the county. This property is located at 8058 Long Court, New Carlisle, IN, Hudson Twp, zoned R1B

Legal work complete. No remonstrators present.

Dwayne Hogan asked for name and address for the record.

Doug McGuire, 4033 E. 350 N., Rolling Prairie.

Dwayne Hogan asked Mr. McGuire if he's representing Gregory Polanek and Eileen Murphy.

Mr. McGuire stated yes.

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

Mr. McGuire said that they own lake property in Hudson Lake. Mr. McGuire said that they have two houses that are in a family partnership. Mr. McGuire said that there is an existing storage building there now that they would like to demolish and build a new one in the back corner of the property. Mr. McGuire said that they have some restrictions where the electric line that runs across the property in order to keep the ten (10') foot setbacks.

Mr. McGuire up at the bench going over the site plan with the members.

Dwayne Hogan asked Mr. McGuire who would be constructing this.

Mr. McGuire said that he would be constructing this shed. Mr. McGuire said that it's MC'S Homestead Construction.

Wally Pritz asked how far the new building is going to be from the house.

Mr. McGuire said it will be seventy-five (75') feet.

Glen Minich asked Mr. McGuire if the other building on the property is going to be demolished.

Board members speaking to Mr. McGuire up at the bench.

Glen Minich asked Mr. McGuire how big the building is going to be.

Mr. McGuire said that it will be twenty (20) by thirty (30).

Melissa Mullins Mischke asked Mr. McGuire if there is storage upstairs.

Mr. McGuire said no. Mr. McGuire said that it is a nine (9') foot ceiling.

Dwayne Hogan asked if there is going to be water and electric in the building.

Mr. McGuire said that it will have electric.

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

Wally Pritz made a motion to approve the petition for Gregory Polanek & Eileen Murphy to construct a storage building thirteen (13') feet from the road easement instead of twenty-five

(25') foot as required by the county. This property is located at 8058 Long Court, New Carlisle, IN, Hudson Twp., zoned R1B.

Melissa Mullins Mischke seconded.

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

All approved. Motion carried 4-0.

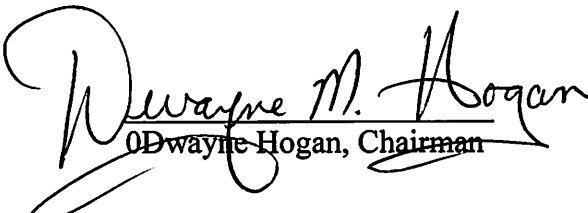
- 2. The Petition for Communication Properties, LLC, by counsel, Ralph F. Howes for a Special Exception to erect a wireless communication tower. This proposed tower would be self supporting and would be 350' feet in height. This property is situated at the intersection of Johnson Road, County Road 500 West and County Road 250 North, zoned B-2. (This matter was tabled from the November 20, 2012 meeting to December 18, 2012 at 6:00 p.m. This matter was tab led from December 18, 2012 meeting to January 15, 2013 at 6:00 p.m.)**

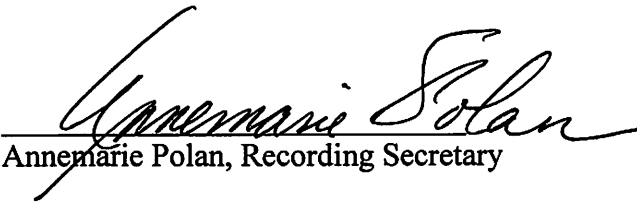
Melissa Mullins Mischke made a Motion to remove this Petition as they have not appeared three (3) consecutive months.

Wally Pritz seconded.

All approved. Motion carried 4-0.

There being no further business, meeting adjourned at 6:40 p.m.


Dwayne M. Hogan, Chairman


Annemarie Polan, Recording Secretary