

LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

March 19, 2013

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, March 19, 2013, at 6:00 p.m. in the Assembly Room of the County Complex.

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

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

The Pledge of Allegiance.

Dwayne Hogan entertained a Motion for approval of meeting minutes from February 19, 2013.

Melissa Mullins Mischke made a Motion to approve the meeting minutes as presented. Wally Pritz seconded. All approved. Motion carried 5-0.

Dwayne Hogan said that he would make a Motion to Adopt our Attorney, Doug Biege.

Melissa Mullins Mischke made a Motion that we retain Doug Biege as our Attorney. Willy Pritz seconded. All approved. Motion carried 5-0.

- 1. The Petition for Billy C. Smith** for continued placement of a mobile home. This property is located at 0444 W. 1000 S., Union Mills, IN , Union Twp, zoned Agricultural.

Attorney Biege said that legal is adequate.

Dwayne Hogan asked for name and address for the record.

Billy C. Smith, 0444 W. 1000 S., Union Mills.

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

Mr. Smith said that he would like a variance for the mobile home on his property for his mother-in-law, who is eighty-five (85).

Melissa Mullilns Mischke asked Mr. Smith how old is the mobile home.

Mr. Smith said that he thinks that it was made in the 80's, he's not really sure.

Melissa Mullins Mischke asked Mr. Smith if he has had variances before.

Mr. Smith said that he thinks that this is the fifth (5th) time

Dwayne Hogan asked Mr. Smith if his intention is to keep the trailer there as long as your mother-in-law's alive.

Mr. Smith stated yes. Mr. Smith said that her health is not that good.

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

Dwayne Hogan asked if there are any questions or comments from the Board.

Wally Pritz said that he would like to see the driveway improved.

Mr. Smith said that every spring when it melts, it gets like that.

Wally Pritz said that he was out there at noon and you were cutting firewood. Wally asked if that could be picked up.

Mr. Smith said that it will be.

Melissa Mullins Mischke said that she thinks that the mobile home is far enough off the road and you can't see it from the street. Melissa said that it appears to be in decent condition.

Glen Minich said that the only condition that would need to be met, is that there is no address on your mailbox or in that area; Mr. Minich said especially if an elderly person that would need medical attention for first responders to be able to get back there.

Dwayne Hogan said that he found it by his GPS, otherwise he didn't see it.

Mr. Smith said that he didn't realize that there wasn't an address on the mailbox.

Melissa Mullins Mischke told Mr. Smith to get in touch with the fire department and get one of those reflective signs.

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

Dwayne Hogan said that he will entertain a Motion.

Wally Pritz made a Motion to approve the Petition for Billy C. Smith for continued placement of a mobile home be granted for a period of three (3) years renewable. This property is located at 0444 W. 1000 S., Union Mills, Union Twp., zoned Agricultural. Melissa Mullins Mischke seconded.

All approved. Motion carried 5-0.

2. **The Petition for Robert & Marilyn Hiles** for continued placement of a mobile home. This property is located at 8717 N. 850 E., New Carlisle, (Hudson Lake), Hudson Twp., zoned Agricultural.

Attorney Biege said that the Petitioners presented what appears to be signatures from all the adjoining property owners and publication is in order.

Dwayne Hogan asked for name and address for the record.

Marilyn Hiles, 8717 N. 850 E., New Carlisle.

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

Ms. Hiles said that she would like to keep her trailer on the property. Ms. Hiles said that this will be permanent because they're not going to do anything else.

Dwayne Hogan asked Ms. Hiles if she has had variances before.

Ms. Hiles said that they have had three.

Melissa Mullins Mischke asked if the mobile home is on a parcel of its own, or is there another house located on the parcel.

Ms. Hiles said that it's by itself on two acres.

Melissa Mullins Mischke asked the year of the mobile home.

Ms. Hiles said that she thinks it's a 1974, but it's kept up.

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

Glen Minich asked Ms. Hiles if she's asking for a permanent variance.

Ms. Hiles said that she would like that because her husband has Alzheimer's and they aren't going to be moving any where unless something happens to them. Ms. Hiles said that this is where they plan to stay because they have no other home.

Dwayne Hogan asked Ms. Hiles if they've been there for nine (9) years now.

Ms. Hiles said more like seventeen (17). Ms. Hiles said that they didn't realize they needed to get variances for this trailer.

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

Glen Minich said that he thinks that we should give her three (3) years, because we've to be concerned about if someone else would come in in the future, and maybe things would fall into disrepair or something.

Dwayne Hogan said that he would entertain a Motion.

Melissa Mullins Mischke made a Motion that the Petition for Robert & Marilyn Hiles for continued placement of their mobile home located at 8717 N. 850 E., New Carlisle, (Hudson Lake), Hudson Twp., zoned Agricultural be granted for three (3) years renewable. Candice Adams seconded.

All approved. Motion carried 5-0.

- 3. The Petition for Scott & Shannon Kelley for continued placement of a mobile home.**
This property is located at 8606 N. 850 E., New Carlisle (Hudson Lake), Hudson Twp., zoned Agricultural.

Attorney Biege said that legal is adequate.

Dwayne Hogan asked for name and address for the record.

Scott Kelley, 8606 N. 850 E., New Carlisle.

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

Mr. Kelley said that he would like to renew their variance for continued placement of a mobile for his grandmother to live on their property.

Dwayne Hogan asked Mr. Kelley how long the mobile home has been there.

Mr. Kelley stated since 1996.

Dwayne Hogan asked Mr. Kelley how many variances he has had.

Mr. Kelley said that this is the third. Mr. Kelley said that they didn't stay current with it for a while, but we're going to keep this up.

Dwayne Hogan asked the year of the mobile home.

Mr. Kelley said that he believes that it's a 1974, but he's not sure on that. Mr. Kelley said that they have done their best to maintain this.

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

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

Melissa Mullins Mischke asked Mr. Kelley if his grandmother lives in the mobile home because she requires care from the family.

Mr. Kelley said that was her property and she doesn't drive and she will be eighty eight (88) this year and she depends on his wife mostly for transportation and to look after her. Mr. Kelley said that she's not ready for assisted care yet. Mr. Kelley said that is her home and she wants to stay there.

Melissa Mullins Mischke asked if there is one residence on the property in addition to the mobile home.

Mr. Kelley stated yes.

Wally Pritz said that this is not destructive from the road in anyway, shape, or form and it looks like it has been maintained very well.

Dwayne Hogan said that he will entertain a Motion.

Wally Pritz made a Motion for Scott & Shannon Kelley for continued placement of a mobile home located at 8606 N. 850 E., New Carlisle, (Hudson Lake), Hudson Twp., zoned Agricultural be granted for a period of three (3) years renewable. Glen Minich seconded.

All approved. Motion carried 5-0.

4. The Petition for Accurate Castings, Inc. (Hiler Industries) for a Special Exception to construct a New Wireless Communication Tower 120feet tall; Developmental Standards Variance for Article 13.15 © (2). Lattice tower instead of monopole and Article 14, 15 © (5) b (Omit landscaping buffer). This property is located at 6951 S. 3rd Line Road, Kingsbury, Indiana, Washington Twp., zoned M2.

Attorney Biege said that notice is adequate, except there is an attempt with Halfwassen Group, LLC and it does not say that it was not claimed, however they did do a certified mail attempt to the address listed in county records. Attorney Biege said that there was certified mail attempt to La Porte Lake Development, Inc. with receipt and no return. Attorney Biege said that FAA certification is verified and La Porte Airport.

Dwayne Hogan asked for name and address for the record.

Gene Crusie with Maple Net Wireless and they're the contractor that was hired by Hiler, or Accurate Castings. Mr. Crusie said that their address is 4561 Pine Creek Road, in Elkhart, Indiana.

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

Mr. Crusie said that as you may know, Hiler has three locations; one in La Porte, one in Kingsbury and one in Walkerton and they're currently using T1 Lines in those locations. Mr. Crusie said that T1 lines are 1.5 megabytes per second. Mr. Crusie said that they use these T1's to run all their production data. Mr. Crusie said that in Kingsbury and Walkerton they're kind of remote and their telecommunication system goes down all the time and they're not able to process orders.

Mr. Crusie said what they're doing is building a wireless system that uses radio waves instead of the phone lines and they're increasing their capacity from 1.5 to 200. Mr. Crusie said that is going to allow them to kind of step into modern age and have more live reduction data and do all kinds of stuff that they're not able to do now.

Mr. Crusie said that on top of that, they're going to be able to get redundancy so they can use the internet as a backup through their wireless connection. Mr. Crusie said that they'll have two forms of connectivity instead of one that goes down all the time.

Mr. Crusie said that last week he was in town and the City of La Porte approved a 120 foot tower at their main location here in La Porte, so now they're out to get a 120 foot tower approved for their location at Kingsbury, and Walkerton is Administrative approval by the zoning body there. Mr. Crusie said that this is the last step that they need to do to be able to proceed constructing this system and improve their telecommunications system.

Dwayne Hogan asked Mr. Crusie how close they are to the next tower.

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

Mr. Crusie said that it looks like it's at least two and a half miles.

Mr. Crusie said that what they're asking for is a "Special Exception" to construct a wireless communication tower ---- Mr. Crusie said that it should be noted that this is for their private use; it's not going to be a cell tower; they're not going to have antennas all over it. Mr. Crusie said the tower is just for Hiler, or Accurate Castings. Mr. Crusie said that the ordinance encourages them to build a monopole, but the monopole tower is about three times as much the costs as a lattice tower. If it would be your pleasure to approve a lattice tower it would be more cost effective for Hiler.

Mr. Crusie said that in this particular case it's in an industrial area and he believes that it is shielded pretty well; it's kind of out in the middle of a field; it's not very tall and it's not going to stand out like a 300 foot tower would. Mr. Crusie said that they're asking to build a lattice tower and they're asking to omit the landscape buffer because it's in the middle of an industrial complex surrounded by all kind of giant molds and stuff.

Wally Pritz asked if they would be putting a fence around it.

Mr. Crusie stated yes. Mr. Crusie said that they would fence it for safety. Mr. Crusie said that they think it's silly to put shrubbery and landscaping when it's going to be surrounded by all kinds of rusty metal and stuff like that.

Wally Pritz asked if there is a possibility that in the future they might want to increase the height of that tower.

Mr. Crusie said that he hopes not.

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

Remonstrator:

Ed Lindborg, 1417 Indiana Avenue, La Porte. Mr. Lindborg said that he also owns Kingsbury Elevator and they are the adjacent property owners to Hiler Industries. Mr. Lindborg said that he would like placement of the tower on the property.

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

Dwayne Hogan asked if there were any questions or comments from the Board.

Melissa Mullins Mischke asked if this is a long term plan for their internet usage, or are they going to try to augment that later.

Mr. Crusie said that he thinks it is a fairly long term plan because of the costs. Mr. Crusie said that this tower will connect to Walkerton, and then Walkerton is going to connect to Plymouth and Plymouth is connected to a Data Center in South Bend and La Porte is going to connect back to South Bend.

Melissa Mullins Mischke told Mr. Crusie that he said that this is going to be a private tower. Melissa said that she knows that there is some industry out in the Kingbury Industrial area so she wanted to know if they wanted to consider maybe sharing. Melissa said that might make it a little more desirable. Melissa asked Mr. Crusie if he has worked with Bert Cook and those guys.

Mr. Crusie said that they were at the last meeting for La Porte to support this.

Glen Minich said that just looking at the map, it looks like it's near the edge of the property.

Mr. Crusie said that it is 95' feet from the property line. Mr. Crusie said that they have a letter from the engineer that designed the tower saying that it will fold on itself at 50% percent of the time.

Glen Minich said that the only other question would be in our zoning ordinance there are a lot of requirements to your application and a lot of them are intended just what Melissa was talking about; the idea we put the tower up and get other people to use, it's not going to require another tower to be put up in such close proximity.

Mr. Crusie said that he would love it---Hiler would love to drive in extra revenue to pay for it.

Glen Minich asked if the height was right.

Melissa Mullins Mischke asked if the 120 feet is enough.

Dwayne Hogan said that 120 feet does seem low.

Mr. Crusie said that what they do is they have an engineering program that looks at the curvature of the earth and the (inaudible) and they calculate how high they need to be to get line of sight between the towers and then they add about 20% percent to allow for tree growth. Mr. Crusie said that he thinks that they would be okay with going up to 140 feet. Mr. Crusie said that the transition above 140 feet gets very expensive. Mr. Crusie said that if this Board would be willing to approve 140 feet, they would certainly try to construct that.

Board members speaking amongst themselves.

Attorney Biege said that they would have to have different FAA Clearance and notify the airport and the engineering would have to be modified.

Melissa Mullins Mischke asked if we could say not to exceed 140 feet.

Attorney Biege said that we would have to have clearance on that. Attorney Biege said that those are statutory.

Mr. Crusie said that they could buy a 140 foot tower and only put up a 120 foot tower and if the opportunity comes up to add the extra twenty feet, we will come back and rezone the additional 20 feet.

Dwayne Hogan asked if there were any other questions.

Glen Minich said that he believes that there is a misprint the way it's written. Article 14.15 ©, which we're talking about, the designed standards, would actually be 5 (b) for fencing.

Dwayne Hogan asked if that is omitting the landscaping buffer.

Glen Minich said that the landscaping buffer is (c).

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

Dwayne Hogan said that he will entertain a Motion.

Glen Minich made a Motion that the Petition for Accurate Castings, Inc. (Hiler Industries) for a "Special Exception" to construct a new wireless communication tower, 120 feet tall with a Developmental Standards Variance for Article 14. 15 be constructed of lattice tower instead of monopole and to omit the landscape buffer, which is Article 5 ©. Special Exception shall be personal in nature and non-transferable. Special Exception regarding developmental standards will run with the land and is transferable. The tower is self-collapsing on the property located at 6951 S. 3rd Line Road, Kingsbury, Indiana, Washington Twp, zoned M2. Wally Pritz seconded.

Dwayne Hogan asked if there were any questions or comments from the Board.

Melissa Mullins Mischke told Mr. Crusie that she wants to encourage him to work with the Economic Development folks.

Attorney Biege said that he wanted to make sure that this is granting a "Special Exception".

Melissa Mullins Mischke said that it is a "Special Exception".

All approved. Motion carried 5-0.

5. The Petition for Richard and Denis Taylor for continued placement of a mobile home. This property is located at 2804 N. 925 E., Mill Creek, Indiana, Wills Twp, zoned Residential.

Attorney Biege said that legal work is adequate.

Rich Taylor and Denise Taylor, 2804 N. 925 E., Mill Creek, Indiana.

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

Mr. Taylor said that they would like to apply for a three (3) year variance for continuance of their mobile home.

Dwayne Hogan asked Mr. Taylor if they have applied for a variance before.

Mr. Taylor said that this would be their third variance.

Melissa Mullins Mischke asked Mr. Taylor if the mobile home has been there for nine (9) years.

Mr. Taylor stated no. Mr. Taylor said that after the first variance, they lapsed with keeping up with the variances, and we reapplied three (3) years ago and now we're back here today. Mr. Taylor said that the mobile home is a 1994 and it has been there since 1994.

Melissa Mullins Mischke asked Mr. Taylor who resides in the mobile home.

Mr. Taylor said that he and his wife live in the mobile home.

Dwayne Hogan asked Mr. Taylor if his intentions are to keep residing there, or do you have aspirations of building there.

Mr. Taylor said that originally that was his intention, but they've had some difficulties over the years and at this point he would be lying if he said he was building a house in two to three years.

Melissa Mullins Mischke asked if that is the only residence on that parcel.

Mr. Taylor stated yes.

Melissa Mullins Mischke asked if there were any other buildings on that property.

Mr. Taylor said that they have a pole barn that was originally on the property. Mr. Taylor said that it was his grandfather's pole barn who owned the property. Mr. Taylor said that it has been out there for quite a while.

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

Dwayne Hogan asked if there were any questions or comments from the Board.

Wally Pritz said that he drove by the property and it looks very nice from the road.

Mr. Taylor said that they have put a lot of work into that property.

Candice Adams made a Motion that the Petition for Richard and Denise Taylor for continued placement of their mobile home located at 2804 N. 925 E., Mill Creek, Indiana, Wills Twp., zoned Residential be granted for a period of three (3) years renewable. Melissa seconded.

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

All approved. Motion carried 5-0.

Dwayne Hogan asked if there was any other business from our Attorney tonight.

Attorney Biege said that some issues have been submitted to the Federal Judge and we're waiting for his decision. Attorney Biege said that there is currently a Motion to Dismiss the Petitions for the Sexual Orientated Business. Attorney Biege said that covers both petitions.

Glen Minich said that we, as a group, are supposed to appoint somebody to the Zoning Map Committee.

Attorney Biege said that the Plan Commission has decided to appoint a Map Committee and the purpose of the Committee would be to review the Zoning Maps that were recently passed in conjunction with our current review of this language of the Joint Zoning Ordinance. Attorney Biege said for the new members, the attorneys for the county and himself, as well as the attorneys for Michigan City and La Porte have been reviewing the Joint Zoning Ordinance in this language and it found so ---- we have issues with the future and recommended modifications and we're going to make some suggested changes to each respective Plan Commission for two reasons. They found some inconsistencies and some errors and number two as importantly, we're trying to once again keep this a Joint Zoning Ordinance so we have consistency amongst the County and Cities.

Attorney Biege said that there was some discussion with the local Plan Commission and a decision was made that perhaps we should review the Zoning Maps that perhaps we might want to tweak some of the Zoning Maps to correct some errors and some improvements. Attorney Biege said that the Plan Commission has asked that one member of the Board of Zoning Appeals participates and be appointed. Attorney Biege said that we're asking for any volunteers, and if not, the President can appoint someone to sit on that Map Committee. Attorney Biege said that we're thinking about six months or so.

Glen Minich said that he believes that they would like to get this completed in that time frame. Glen said that there is going to be a workshop in approximately two months and it's actually on our agenda next week to set up the group and then we're going to put some advertisements out to get the public involved.

Dwayne Hogan asked Glen if he is already on it.

Glen Minich said no. Glen said that he thinks that most senior members here would be the best candidate. Glen said that there is a lot of things that need to be corrected and we need to identify those amongst ourselves so we can ask for those changes to be made.

Glen Minich said that one of the comments was that when the Maps were created and the Zoning Ordinance, there were a lot of meetings, but a lot of the public input never got into this book and there was a clean sweep and the book got published; there were a lot of omissions. Glen said that the one thing that has been totally omitted is Industrial Reserve and Business Reserve properties, which he thinks are extremely important. Glen said that if someone comes into our community looking for a place to do business, we want them to see that we're open to them.

Melissa Mullins Mischke asked if that includes some of the overlay districts.

Attorney Biege said that we just passed and added the KIP Overlay District within the last few months. Attorney Biege said that he's not aware of any other expected overlay districts. Attorney Biege said that the other factor, keep in mind, the ultimate authority with these Maps rest with the County Commissioners and in the last round as they're elected to do, they made changes. They're not necessarily consistent with what the Plan Commission initially passed, but they do have the final say so.

Attorney Biege said that part of the purpose of establishing a county wide plan in maps is for the future, not necessarily what's there right now.

Glen Minich said that he would do it, but he would want everybody's input; especially he doesn't know Michigan City area very well, so when we actually have the meetings it would be fantastic to have input.

Dwayne Hogan told Glen that we're going to let you be the spokesman for it and bring it back and we will give you the input as well.

Dwayne Hogan asked if there was anything else this evening.

Dwayne Hogan said that he will entertain a Motion to adjourn.

Melissa Mullins Mischke made a Motion to adjourn. Glen Minich and Candice Adams seconded.

All approved. Motion carried 5-0.

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

Dwayne Hogan, Chairman

Annemarie Polan, Recording Secretary

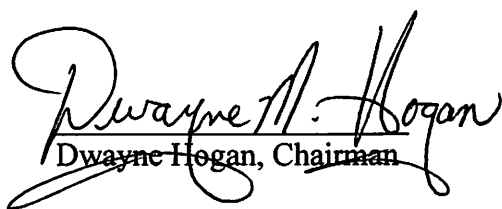
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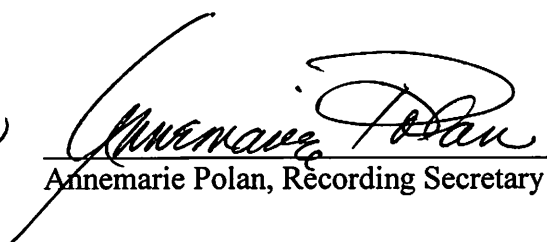
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Dwayne Hogan, Chairman


Annemarie Polan, Recording Secretary