



# LAPORTE COUNTY PLAN COMMISSION

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**ANNEMARIE POLAN**  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES October 23<sup>rd</sup> 2018

MEMBERS PRESENT: Anthony Hendricks      Gene Matzat  
Rita Beaty Kelly      Connie Gramarossa  
Earl Cunningham      John Sullivan  
Harold Parker      Glen Minich  
John Carr

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Douglas Biege, Attorney,  
Dar Forker, Secretary.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### APPROVAL OF THE AGENDA

Anthony Hendricks asked for a motion on the agenda.

John Sullivan made a motion to approve the Agenda. Rita Beaty Kelly seconded.

Anthony Hendricks asked if there are any changes, additions, or deletions.

All approved. Motion carries 7-0.

### APPROVAL OF MINUTES

Anthony Hendricks asked for approval of the meeting minutes from the August 28<sup>th</sup>, 2018 meeting.

John Sullivan made a Motion to approve the minutes from the August 28<sup>th</sup>, 2018 meeting.

Rita Beaty seconded.

Anthony Hendricks asked if there are any changes, additions, or deletions.

All approved. Motion carries 9-0.

**1. Petitioners Jason Kazen and Jenny Kazen, by counsel, Andrew D Voeltz of Howes & Howes, LLP, respectfully petitions the La Porte County Plan Commission for a favorable recommendation for a Zoning Map change as provided for in Article 30 of the La Porte County Joint Zoning Ordinance.**

The above described real estate is located at or near 8310 East 700 North, New Carlisle, Indiana, Hudson Twp., zoned R1B. Petitioners are requesting that the above described property be rezoned to Business (B1 or B2).

Attorney Biege said notice is adequate.

Anthony Hendricks asked for name and address for the record.

Andrew Voeltz said he's an attorney with Howes & Howes here in La Porte, Indiana representing Jason & Jenny Kazen on a petition for a zoning map change for the property described with a brief legal description as provided in the petition at or near the address of 8310 E. 700 N., New Carlisle, Indiana, Hudson Twp.

Attorney Voeltz said for those of you who are on the Board of Zoning Appeals, the Kazen's should be pretty familiar to you, that they've come before that board on at least two (2) prior occasions for petitions for exception for Use and Special Exceptions for operating what they're doing out there, which is basically a car-hop --- Digzy Dogz.

Attorney Voeltz said it's a restaurant and they operate out of a mobile food truck that has gone around the county at various festivals and other occasions, but this is kind of their home. Attorney Voeltz said that they've operated out there since 2016 and he's been authorized to disclose that their retail sales last year were in excess of two-hundred thousand (\$200,000) dollars.

Attorney Voeltz said that the issue is, they've continued to go before the Board of Zoning Appeals to request a Use variance, or a Special Exception to allow for the operation for the enterprise of an Amish type shed that was erected on the property.

Attorney Voeltz said at that point and time, he did appear in front of the Board of Zoning Appeals and indicated the direction that this was going to go, and that they would be requesting for this to be a zoning map change from R1B back to what it was originally B1, or B2, twenty (20) years ago, with a previous restaurant that was at that location.

Attorney Voeltz said certainly he thinks this is the highest best Use for this property and it's been identified as indicated that they've developed quite the following out there and rather than continue to come back before the Board of Zoning Appeals and continue to requests variances, they're asking that this property be rezoned from R1B to B1, or B2 because the specific permitted Use is under B1, or B2 to include a restaurant, whether it's carry out, or sit down, and they don't have any intentions at this point of doing a sit down, but then this would allow them the possibilities erecting a brick and (unintelligible) location that would allow them to use their mobile truck as a satellite operation to go wherever else they could in the county.

Attorney Voeltz said therefore, they're requesting that this Commission would consider the petition for the zoning map change and allow this property specifically to be rezoned from R1B to either B1, or B2 and any other further relief you would grant. Thank you.

Anthony Hendricks asked if there are any questions from the board.

Attorney Biege said the difference between B1 and B2 is very small. Attorney Biege said B2 would allow a drive thru with a Special Exception, where B1 would require a full variance. Attorney Biege said that's the only difference between the two.

Attorney Biege said the difference between a full variance and a Special Exception, in a Special Exception that activity is permitted, but you have to go in front of the Board of Zoning Appeals because it's just something we want them to look close at, but for a Special Exception it's almost a rubber stamp.

Anthony Hendricks asked if there are any questions of the board.

Glen Minich asked attorney Voeltz if they have a preference between B1 and B2.

Attorney Voeltz said at this point, he would agree with the clarification by attorney Biege is that you're looking at specifically the allowed, or permitted Use under a business district designation, in his opinion B2 would be the highest best that would be allowed.

Attorney Biege told attorney Voeltz he agrees with him. Attorney Biege said he wants to chime in and add, Anne just pointed out to him that across 700 North, that's all B2 zoning. Attorney Biege said his suggestion would be if the court is so inclined, let's keep it consistent with the area.

Anthony Hendricks asked if there is a difference in density in B1, or B2 setbacks.

Anthony Hendricks said that if it's a drive thru, we have a lot of requirements with stacking and setbacks.

Attorney Biege said if it ever becomes a drive thru, there is a specific section that list the requirements for a drive thru. Attorney Biege said they would have to jump through some hoops. Attorney Biege said that they would have to show the Board of Zoning Appeals they're complying with the setbacks in Section 14.06. Attorney Biege said he doesn't see any density requirements or differences between the two.

Earl Cunningham said while we're looking through some paperwork, he will say this. Earl said he happened to be out there on the motorcycle this summer and he sat down and had a hot dog at the picnic table. Earl said he can tell you the vast majority of their business is walk-ins. Earl said the neighbors love him because they're walking in and eating. Earl said it's very clean and he can see why they're doing such a great job.

Earl Cunningham said as a Board of Zoning Member he commends them for operating a business in the county.

Attorney Biege said there is a difference in the front yard setback where as B1 has no front yard setback and B2 has a twenty-five (25') foot setback. Attorney Biege said that the rear setback is fifteen (15') feet on B1 and twenty-five (25') foot setback to the rear in B2. Attorney Biege said that's the only difference.

Board members speaking amongst themselves.

Attorney Biege said that they're already operating with one variance and one Special Exception out there and that has already been granted by the Board of Zoning Appeals. Attorney Biege said if you don't grant this here, they will probably be back and get it through the Board of Zoning Appeals anyway. Attorney Biege said this just saves some steps.

Anthony Hendriks said this parcel was previously zoned business.

Attorney Voeltz said this was a pizza parlor many many years ago and he believes there is a "Remonstrator" here who could provide a little more information about that. Attorney Voeltz said there was a zoning map changes an overlay going to R1B over the top of it and then some of the adjacent parcels kept their designation as B2, where as this one, for whatever reason on the corner got plopped into an R1B designation.

Anthony Hendricks said we will open up the floor for anyone for, or against the petition.

**Remonstrator:**

I just want to verify that these people run a straight business; there's never no trouble there; there's flowers there and the lawn is always mowed and everything is painted. They're doing the best they can the way it looks to him.

I live at 8342 700, which is just across the fence from them. The La Porte Herald Argus had an article saying that property had been vacant for ten (10) years; that's a lie. It was vacant about four (4) years and then a construction company rented it for two (2) years that they spent rebuilding the overpass there on Amtrak and he had generators and air compressors and big machinery running on the other side of the fence all that time. It was vacant for maybe a year, or year and a half when they bought that property.

As far as being non-commercial and just residential, it wasn't residential very long, it was just grass. My folks bought that property and had a restaurant on it and a little bitty home; the rest of it was cornfield. The man who owned the property was Leonard Zook, who since passed away. My folks bought that from him. I'm just verifying that they're doing a good job and there should be nobody causing any problem.

As far as somebody changing that to residential only whoever did that didn't own one (1) square foot of that property; the next seven-hundred (700') feet of the property down on 700 North was owned by his family, which he didn't appreciate because it devalued the property.

Anthony Hendricks asked for name and address for the record.

Wilkinson, son of Joe & Phil Wilkinson, who were the original owners.

Anthony Hendricks asked if anyone else wants to speak for, or against the petition.

Anthony Hendricks asked if there are any questions from the board.

Rita Beaty Kelly made a Motion that we give a favorable recommendation to the County Commissioner for re-zoning this property to B-2 provided in Article 13 for the petition for Jason & Jennifer Kazen for the real estate located at or near 8310 East 700 North, New Carlisle, Indiana.

Connie Gramarossa seconded.

Anthony Hendricks asked if there any questions on the re-zone.

All approved. Motion carries 9-0.

Anthony Hendricks asked if there is any old business.

Anthony Hendricks asked if there is any new business.

Anthony Hendricks asked for a Motion to adjourn.

Gene Matzat made a Motion to adjourn. Rita Beaty Kelly seconded.

All approved. Motion carries 9-0.

There being no further business before the Plan Commission this evening, meeting adjourned at 6:15 p.m.

  
ANTHONY HENDRICKS, President

  
ANNEMARIE POLAN, Rec. Secretary