



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

August 18th, 2020

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **August 18th, 2020, 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 July 21st, 2020.

Dwayne Hogan made a motion to approve the meeting minutes of July 21st, 2020 as presented.

Earl Cunningham seconded.

All Approved. Motion carries 5-0.

Petitions:

1. Petition for Variance of Use for James D. & Jessica L. Arnold and Our Neck of the Woods, LLC represented by Anthony Novak of Newby, Lewis, Kaminski, and Jones, LLP to operate a boarding facility in R1A zoning and on 9.4 acres instead of the required 10-acre minimum. The property is located at 2729 N. Wozniak Rd., Michigan City, IN., Coolspring Twp., zoned R1A. Parcels 46-05-23-176-011.000-046 and 46-05-23-176-013.000-046.

Attorney Biege stated notice is adequate.

Anthony Novak stated he is an attorney with Newby, Lewis, Kaminski, and Jones in LaPorte. He is representing James & Jessica Arnold. Jessica Arnold is also present on Zoom. Their entity they created specifically for a boarding stable is Our Neck of the Woods LLC.

Anthony Novak stated they are seeking two variance which together will permit the petitioners to operate a boarding stable on their two parcels of land at 2729 N. Wozniak Rd. in Michigan City. The exhibit provided to the Board by Ashley is a beacon overview which shows the parcel and circled are the barn and paddocks that will be utilized. The two variances they are seeking will be to operate a boarding stable in R1A zoning which allows one horse per acre, but cannot board the horses, and to operate on 9.4 acres of land where the JZO requires it to be on 10 acres of land. Jessica Arnold has had a love for horses her entire life. She began riding when she was three (3) years old and got her first horse about twenty-five (25) years ago. Since then, she now has five (5) horses. She has obtained them by rescuing them from less than ideal situations. In 2016, the property became available which suited their family needs with horses in mind. It has nearly ten (10) acres. It is mostly wooded and secluded. It was already equipped with barns and paddocks where she could keep her horses. The one barn circled in red on the exhibit, has six stalls inside and there are five (5) paddocks right near the barn outside. In November 2016, they purchased the property and moved in with their horses. They have enjoyed the property since that time, but Jessica saw an opportunity with the stall barn as it goes unused the majority of time. If she is able to have a boarding stable here, she would provide various levels of service for others with their horses. She would be able to board horses while people are out of town. She would be able to board for people passing through the area with their horses and would need to rest for the night. The property name would remain the same under their personal names, but the boarding stables would operate under their LLC. She is allowed to keep horses under the existing JZO; she can have up to nine horses of her own. She only has five (5) and does not plan to maxing it out at nine when boarding, but instead use it from time to time when she has the ability to do so. If the use variance is granted, there would not be additional construction as the buildings are already existing. They are asking for the two variances to have a boarding stable on 9.4 acres in R1A zoning.

Melissa Mullins Mischke asked how many horses max from a boarding perspective.

Anthony Novak stated she would abide by the use which allows one horse per acre. Her 9.4 acres allows for nine (9) horses if they round down. Certainly, they would take ten (10) horses, but nine (9) is fine.

Dwayne Hogan asked how many horses she has now.

Jessica Arnold stated she has five (5).

No remonstrators present.

Earl Cunningham stated that after visiting the site he would have no concerns allowing ten (10) horses. If she has five (5) and would like to board (5) temporarily that wouldn't bother him in the least.

Dwayne Hogan agreed. The property looks very nice.

Dwayne Hogan made a motion to approve the Petition for Variance of Use for James D. & Jessica L. Arnold and Our Neck of the Woods, LLC represented by Anthony Novak of Newby, Lewis, Kaminski, and Jones, LLP to operate a boarding facility in R1A zoning and on 9.4 acres instead of the required 10-acre minimum. They are allowed to have ten (10) horses total at one time. The property is located at 2729 N. Wozniak Rd., Michigan City, IN., Coolspring Twp., zoned R1A.

Greg Szybala seconded.

All Approved. Motion passed 5-0.

2. Petition for Variance of Use for Edward W. and Debra S. Arnold represented by Andrew Voeltz of Howes & Howes, LLP for construction of a 68 – 70 unit assisted living facility with potentially 6 – 8 detached senior villas, which would be allowed if the property was zoned B1 or O1. The property is located at 4155 N. State Rd. 39, LaPorte, IN., Center Twp., zoned B3 on 4.01 acres. Parcel 46-06-11-300-016.000-042.

Attorney Biege stated notice is adequate.

Andrew Voeltz stated he is with Howes & Howes in LaPorte and is representing Edward and Debra Arnold.

Andrew Voeltz stated this is a petition for use variance with regards to the fact that his client is desiring to construct a 68 – 70 unit assisted living facility that would be one-story estimated at approximately forty-eight thousand square feet (48,000’²). There would be potential future construction of 6 – 8 detached senior villas. Pursuant to the JZO, if this property was zoned B1 or O1, this would be a permitted use and they would not need to be before this Board. The location is near the toll road making it a commercial highway using B3 zoning. Letters of support from neighboring property owners have been supplied. This project at this stage is very early; there are still many steps along the way. This Board would need to grant the use variance before they could even approach the potential construction type at this property. There are certainly other hoops that will need to be jumped through. Candidly, they are aware it is a politically charged issue. There are moving parts in regards to fire suppression, fire support, water towers, grants, etc, but the Boards focus should just be the use variance at the point. They are aware of the process they have to go through and the involvement with other entities required, but they can’t get to that step unless they grant the variance. The focus is just the use variance, not fire suppression, fire protection, or grants. His client and his architectural representative are present as well should they need to answer questions.

Melissa Mullins Mischke asked if there is any intent to purchase the property around this parcel, north of there and along the toll road.

Andrew Voeltz stated this is a unique situation because his client or business entities own all of the parcels around there with the exception of the State of Indiana. The plans that are submitted are what their intended plans are in regards to construction of this facility.

Melissa Mullins Mischke stated she is aware Mr. Voeltz wants them focused on this specific use of the land, but are there sufficient facilities out there to support it like water and sewer.

Andrew Voeltz stated he will explain, but jurisdiction the Board cannot factor this into their determination.

Melissa Mullins Mischke stated that is true, she is curious if it is build-ready.

Andrew Voeltz stated there is a one-million (1,000,000) gallon lake that is there available to be used for fire suppression, but there will be hoops to jump through, but they are not going into this blindly. The prophylactic measures are in place to provide proper fire support, suppression, and protection with what he is proposing in regards to the reservoir that is out there.

Melissa Mullins Mischke stated she was asking about water and sewer availability.

Attorney Biege stated that area is a part of the 39 North Conservancy District. It is not built out yet that far, but there are plans for it. When the conservancy district was designed it took into consideration these types of buildings and moving north.

Dwayne Hogan stated it is a great idea and he applauded the effort for wanting to do it out there, but there is hesitation about the fire suppression considering his background.

Andrew Voeltz stated there would be potential for the project to be shot down if that was not put into place, but they cannot get to that place without being allowed to present the possibility of this project to go through and with its current zoning it is not permitted. That is why they are requesting the use variance. It is a domino type situation. All the pieces need to be in place and addressed in order before the various Boards and Commissions one step at a time. They can't get passed this first step without this Board granting the variance to allow them to proceed to present further options and avenues in the future.

Dwayne Hogan stated there would have to be some type of contingency plan that in the event that it wasn't fulfilled in the end that it could never happen.

Attorney Biege stated there are a lot of different agencies that are going to monitor this. Their only consideration is whether a nursing home should be in that spot. There is no way it will be constructed unless they go through a bunch of different state entities, approvals, and inspections. There is nothing that this Board can do that will affect fire suppression, water, or sewer. They are already monitored by other agencies.

Earl Cunningham stated that Dwayne's point is if they can make the motion contingent on all state approvals.

Attorney Biege stated it is already contingent on all those.

Earl Cunningham stated he is concerned with protecting this Board.

Andrew Voeltz state he understands that, but even at the end of the day, if this Board approves this use variance, if they are shot down by another agency or entity it does not come back on this Board because that is not this Boards decision.

Melissa Mullins Mischke asked how long it takes to get from this facility to Franciscan Hospital.

Andrew Voeltz stated about twenty to twenty-five minutes. LaPorte Hospital would be a similar time. Estimating twenty-five minutes max.

Melissa Mullins Mischke stated there can be issues with transportation from senior living facilities and that can be a burden on the resident.

Andrew Voeltz stated that using the toll road to South Bend hospital or Michigan Hospital would be about twenty-five minutes at most.

Remonstrators:

Randy Novak stated his address is 7000 W. 125 N., LaPorte, IN.

Randy Novak stated he understand the Boards position on the zoning. There was a meeting last week with the LaPorte water Department, the fire departments, and others. He thinks this is a fantastic plan and he loves the design. It is needed in LaPorte County. His concern is the water line going out supplying this area. It has nothing to do with Mr. Arnold personally. He sits on the Redevelopment Commission for the County and they are not promoting new developments in that area because they can know there can be no construction in the industrial park because there are no water lines to supply it. There is a main water line going out there that should be twelve inches (12") that was downsized to eight inches (8"). Per the LaPorte Water Department, there is not enough sufficient water to do it. There may be contingency plans, but there needs to be communication with LaPorte. LaPorte City offered to do something with a water tower over there and take over that line. If at all possible, he would like to see it contingent upon that per the local fire department and water department. An assisted living facility out there with that many people is a concern. The idea is fantastic, but the water main isn't big.

Attorney Biege asked how he would phrase the contingency request. Are they talking about the line size or a water tower?

Randy Novak stated the meeting last week included LaPorte Fire Department, LaPorte City Water, and Center Township Fire Department. They spoke about a water tower. He spoke to Mayor Dermody and he is open to discussing a water tower. Tim from the Water Department for LaPorte City stated they would take it over and do it. The Redevelopment Commission is in the process of filing grants as Mr. Voeltz mentioned. Everybody is trying to get this fixed, but it needs to be fixed. He doesn't want to prevent them from doing this, but if there could be some contingency made that would be great.

Dwayne Hogan asked Doug Biege if there would be some way to word this to make that happen.

Attorney Biege stated it is contingent upon appropriate volume available for fire suppression, would that be sufficient?

Randy Novak stated he is unsure. Engineers can spin numbers and predict, but it isn't certain.

Attorney Biege asked if Center Township Fire Department makes the call on that?

Randy Novak stated yes.

Attorney Biege stated they could make it subject to approval of Center Township Fire Department.

John English stated his address is 132 W. Market St., Elkhorn, WI. He is the developer.

John English stated the plans and specs have to be approved by the Indiana State Department of Public Health Engineering program. It has to be approved by the Indiana Department of Homeland Security Fire Protection and Building Safety Division. They will not give them a license to operate without their approval.

Melissa Mullins Mischke asked if the local fire department has to do an inspection.

Randy Novak stated yes, after the fact. His experience with the Homeland Department has been them granting approval without things the local entities deem necessary. Things change. They say the State is the safeguard, but it's not.

Dwayne Hogan stated he doesn't want to handcuff Center Township into something they can't control either.

Andrew Voeltz stated they are laser focused on the jurisdictional aspects on what this Board can and cannot do. There can be findings of facts and conclusions as related to the variance would be granted contingent upon, but then nothing can happen. It has to happen first. The project needs to be moving first in order for all of these hoops to be jumped through. They cannot get Center Townships approval on fire suppression techniques unless they are installed or at least proposed. Without a use variance allowing the project to proceed they won't even get there. How do you put a contingency into place before construction is done?

Melissa Mullins Mischke stated she is more concerned with water supply.

Andrew Voeltz stated there are at least a half a dozen agencies involved.

Melissa Mullins Mischke stated there are two letters in support of the project, however they do not list their addresses.

Attorney Biege stated he wants to be clear on what the Board takes into consideration. He appreciates the Boards' concern, but this Board has no expertise with regard to fire suppression. He appreciated Mr. Novak's comments, but the Boards considerations are: whether the approval

will be injurious to the public health, safety, and morals of welfare of the community; use and value of the adjacent area; some peculiar condition of the property; strict application and terms of these ordinances will constitute an unnecessary hardship to the property; approval does not interfere with the comprehensive plan. From a legal stand point, fire suppression is not a consideration of the Board. If they choose to make it contingent, which they do a lot, does not mean he can enforce it because they don't have jurisdiction. They add contingencies sometimes to alleviate concerns of the remonstrators, neighbors, or individual Board members, but if they were to have an issue, he could not enforce this. There already agencies assigned that handle this. If somebody is to ensure proper insulation of a fire suppression system, it will not be this Board,

Dwayne Hogan stated his concern is if it will be injurious to the health and safety of the people if it doesn't meet that criteria. He has thirty-five (35) years of fire service. They're saying trust me now so we can move forward, but what happens when something slips through that should have been taken care of now. It wasn't addressed up front. He would feel better if Center Township were present to discuss it or meet with them to develop a plan and come to an agreement about what they will do.

Attorney Biege stated they can instruct the Building Commissioner not to issue a Certificate of Occupancy until such time that she has verified with Indiana Department of Public Health, Indiana Department of Homeland Security, and Center Township.

Greg Szybala asked if they are sure there won't be more agencies involved.

Andrew Voeltz thinks that is a phenomenal idea. It covers the Board and the Certificate of Occupancy can't be issued unless these agencies sign off.

Attorney Biege stated they can instruct the Building Commissioner to do things. They are ensuring all three entities are happy before anybody goes in.

Greg Szybala asked if it would be better to say state and local.

Attorney Biege stated they could say that.

Ed Arnold stated his address is 4155 N. State Road 39, LaPorte, IN.

Ed Arnold stated this parcel is very isolated because it is surrounded by interstates. The gentleman club approached him to build there recognizing that this area was a site they could get away with in LaPorte County. He owns all the property around and he recently bought the property across the street. Anything that can see this development including the Merchant School Building, Mr. Hamiauto, Pat Kindig, and the owners of the Hampton Inn think it's a wonderful idea. He has twelve (12) years of fire experience as well. They are going to build the safest building around. The building will be corona resistant. There will be needlepoint bipolar ionization technology and UV lighting in the heating and air conditioning system. They will approach hospital levels in this assisted living facility because this is a serious issue that we are facing today. They have a plan for water that will come down the road with a different agency. He does have an issue being hamstrung with Center Township because of his unique relationship

with them. His wife was Center Township Trustee for twelve (12) years. There was some fighting in the department; there are a lot of personalities involved. They do not have the expertise of the other agencies. He is happy to go under the thumb of Homeland Security, the Indianapolis departments, and the Building Commissioner, but don't require them to be subject to Center Township approving plans because they don't have the expertise.

Randy Novak stated they cannot eliminate the local fire department from having authority to do that. They are putting their lives on the line to go out there and save somebody that's out there. To say that they aren't going to include them isn't right. After the fact, Center Township may go out there and says there's an issue. They are a small department and you're asking them to hold up millions of dollars of stuff after it's all done instead of having them talk about it before hand makes it that much harder. It is easier to get this resolved now than it is later. He understands the time constraint, but absolutely don't take out Center Township, City of LaPorte, or LaPorte City Water Department. They're the ones feeding the water. It's the supply line going out there not the fire suppression system that will be the issue.

Earl Cunningham asked approximately how many jobs would be created.

John English stated the economic impact project construction jobs to range from one hundred twenty-five to one hundred seventy-five 125 – 175 jobs. Their general contractor is an investor in the project out of St. Louis, but they will be using all local subcontractors. The long-term employment, which are prevailing wage positions, will offer at least fifty (50) jobs. Budget numbers estimate around four million dollars (\$4,000,000) of construction labor. The ten-year period of labor within the building is two million dollars (\$2,000,000) per year resulting in twenty million dollars (\$20,000,000). It's the right time to do this. They are pushing to move this project moving forward. There is not a lot of construction work going on currently. They are coming into town with investors, loans, and risks that are being taken by the ownerships that are willing to do this. It benefits not only the local economy, but the state economy as well through to the national economy. Property taxes are budgeted for at least eighty thousand dollars (\$80,000) a year for this building.

Glen Minich asked if the hotel out there is being supplied water from the City line at this time.

Ed Arnold stated yes.

Melissa Mullins Mischke stated it is a wonderful idea and location, but she is not inclined to vote yes to this without support from working with the local agencies as well. It seems to be a large concern. If they can't find a way to work with them and include them, then she is inclined to say no to this.

Dwayne Hogan agreed, He understands Attorney Biege wants them to stay focused, but he wants their bases covered. The entities should be involved that need to be. They need to be able to work together to keep things going forward.

Greg Szybala doesn't see why those departments and agencies can't work in conjunction with this project, especially since this project will be mandated by State requirements. If everybody is

on board and working in conjunction as far as approvals and the process there should be no reason they shouldn't be able to build this project there.

Earl Cunningham stated the investors are putting a lot of money into this project and this meeting has been taped. If they build something and there's a fire later on and the fire suppression is a problem, that's multi-million-dollar lawsuits and he can't imagine the investors taking that risk unless they were willing to meet the standard.

Andrew Voeltz stated Mr. Cunningham sounds like an attorney.

Earl Cunningham stated he wished he was getting paid like an attorney.

Attorney Biege stated the insurance company above all will make sure that the fire suppression system is adequate. This isn't the only place anybody will look at it. He believes the strictest authority on any fire suppression on a facility such as this will be the insurance company.

Earl Cunningham made a motion to approve the Petition for Variance of Use for Edward W. and Debra S. Arnold represented by Andrew Voeltz of Howes & Howes, LLP for construction of a 68 – 70 unit assisted living facility with potentially 6 – 8 detached senior villas, which would be allowed if the property was zoned B1 or O1. Contingency subject to approval of all local and state agencies and departments whose jurisdictions will determine how said structure and complexes are to be built. The property is located at 4155 N. State Rd. 39, LaPorte, IN., Center Twp., zoned B3 on 4.01 acres.

Contingency supplied by Greg Szybala.

Greg Szybala seconded.

All Approved. Motion passed 5-0.

3. Petition for Special Exception for Daniel Versaw to operate a sand mining business. The property is located between 666 and 998 E. 1000 N., LaPorte, IN., Galena Twp., zoned A on a combined 40 acres. Parcels 46-03-18-200-002.000-048(20 acres), 46-03-18-2000-003.000-048(10 acres), and 46-03-18-200-004.000-048(10 acres).

Moved to the end of the agenda.

4. Petition for Variance of Developmental Standards for James and Pamela Glasgow for construction of a home on a parcel that is basically land locked; will use portion on existing driveway (father's) and new driveway. The property is located southeast of 7719 S. Sand Rd., Union Mills, IN., Noble Twp., zoned R1B on 4.5 acres. Parcel 46-14-08-401-016.000-056.

Attorney Biege asked if there is any road frontage.

James Glasgow stated no.

Attorney Biege stated this will be subject to the interpretation of the Board. The publication says petition for variance/special exception on a parcel that is basically landlocked, will use portions on existing driveway and new driveway. There is not a request for a variance on road frontage. It doesn't mention lack of road frontage. It does not put the neighbors on notice as to what they are requesting. Their request is for a variance for road frontage because they don't have any. County rules say you have to have two hundred feet (200'). They didn't say that in the notice. The notice just says to use the driveway. They have to put enough information in there to put the neighbors and public on notice as to what they are asking for. In his opinion, notice is inadequate.

Glen Minich stated he disagrees because it stated it's landlocked and that means there is no access.

Attorney Biege stated he understands, but it didn't mention road frontage and that is what they are asking for. The notice is inadequate, but the Board can overrule his decision.

Dwayne Hogan stated it should be republicized.

Attorney Biege stated they have to be clear about what they are asking for so the public and neighbors have an opportunity to object to it. If you aren't clear what you are asking for, then they have no way of knowing. You are asking for a variance on road frontage.

Annemarie Polan stated that to be fair, one of the staff may have helped him write this and they put landlocked.

Attorney Biege stated that is why the petitioners have the ability to hire an attorney and if they want to do it on their own, this is the risk they take.

Melissa Mullins Mischke stated she would like to see it re-advertised.

Attorney Biege stated the notice to the neighbors say the same thing. They need to amend the petition, re-notice the neighbors, and re-advertise.

Earl Cunningham made a motion to table the Variance of Developmental Standards for James and Pamela Glasgow for construction of a home on a parcel that is basically land locked; will use portion on existing driveway (father's) and new driveway. The property is located southeast of 7719 S. Sand Rd., Union Mills, IN., Noble Twp., zoned R1B on 4.5 acres. Petition tabled to the September meeting and must be amended to re-notify and re-publish adequately.

Dwayne Hogan seconded.

Approved. Motion carries 4-1.

5. Petition for Variance of Developmental Standards for Nikki Howard for three (3) shipping containers side by side, set next to a detached pole barn. Containers will look like one structure. The property is located at 725 N. 250 E., LaPorte, IN., Kankakee Twp., zoned R1B on 3 acres. Parcel 46-07-33-200-005.000-052.

Attorney Biege stated notice is adequate.

Nikki Howard and Jason Millard stated their address is 725 N. 250 E, LaPorte, IN.

Melissa Mullins Mischke asked what the need is for the shipping containers.

Nikki Howard stated they recently got engaged and combined two households. They were going to build a pole barn, but she lost her job due to Covid. The shipping containers were less expensive for storage. They needed an inexpensive storage option.

Dwayne Hogan asked if this will be temporary.

Nikki Howard stated yes.

Melissa Mullins Mischke asked if they are already there.

Jason Millard stated yes.

Glen Minich stated the Building Commissioner wrote that they will be enclosed.

Jason Millard stated the plan was to place them behind the pole barn and paint them to match and put landscaping around them so they are barely visible. Currently, they can only go so fast with lack of funds.

Glen Minich stated the problem with storage containers is that there is a code for installing them and it is not that inexpensive. These would have to be put in place by the County's building code which would require pouring piers and attaching them to the piers or building a foundation.

Annemarie Polan stated the inspectors would check that.

John Millard stated they're not in poured concrete, but there are concrete blocks on all the corners. They are all tied together with welded brackets he made at his job. They are not tied to the ground yet, but that could be done.

Melissa Mullins Mischke stated that would have been handled beforehand during inspection, but that would still be an issue they would look at during future inspections. They are wanting long term storage; they won't be moving anytime soon. Are they attached to the garage?

Jason Millard stated no.

Melissa Mullins Mischke asked how much space there is between them.

Jason Millard stated three feet (3').

Dwayne Hogan stated this is more of a permanent temporary.

Melissa Mullins Mischke asked if they plan on leasing out storage space.

Nikki Howard stated no, they have three teenage sons and they need the storage space.

Dwayne Hogan stated it wouldn't be a rental.

Jason Millard stated no.

No remonstrators present.

Glen Minich stated they are here because there was a complaint, even if they didn't want to attend the meeting publicly and air their complaint.

Annemarie Polan stated there wasn't a complaint; one of the inspectors saw it.

Glen Minich stated it is in an area of higher end homes, but they are not exposed very much where they are being placed.

Melissa Mullins Mischke stated this is not a trend they want to continue, but in the best of worse situations the location is as good as it's going to get. If they do make it match the barn, that will be helpful.

Dwayne Hogan stated the barn looks nice.

Nikki Howard stated it's just not big enough.

Dwayne Hogan made a motion to approve the Petition for Variance of Developmental Standards for Nikki Howard for three (3) shipping containers side by side, set next to a detached pole barn. Containers will look like one structure, match the pole barn, and be for personal storage only. Must be properly installed per code. The property is located at 725 N. 250 E., LaPorte, IN., Kankakee Twp., zoned R1B on 3 acres.

Greg Szybala seconded.

All approved. Motion passed 5-0.

6. Petition for Variance of Use for Legacy Sign Group, LLC (buyer) and GH&J, LLC (seller) to operate a sign manufacturing business in the current building. The property is located at 7933 W. Hwy. 6, Westville, IN., New Durham Twp., zoned A on 4.05 acres. Parcel 46-09-35-351-001.000-027.

Attorney Biege stated notice is adequate.

Shaun Ensign stated his address is 316 N. 325 W., Suite 1, Valparaiso, IN.

Shaun Ensign stated he represents the buyer Legacy Sign Group. He is a partner. His other partner is also present. They are seeking a petition for a variance of use for the building to allow them to operate a sign manufacturing business in the existing building. The building is already set up well for them. Their business operation should create no more noise, traffic flow, equipment, or deliveries than what currently exists on the building and property. They hope to be a long-standing business in LaPorte County. They are happy to address any questions.

Melissa Mullins Mischke asked how many employees there would be at this location.

Shaun Ensign stated they currently have seven (7) employees including himself and his business partner. In the future, they could grow to around twenty-five (25) employees or more.

Melissa Mullins Mischke asked what kinds of signs they make.

Shaun Ensign stated business outdoor identification signs including letter signs, monument signs, pylon signs, and wall signs. No billboards or digital printing, but they do offer custom electric signs.

Dwayne Hogan asked if they would have a sign in front for the business.

Shaun Ensign stated they intend to.

Melissa Mullins Mischke asked what size sign are they looking to do.

Shaun Ensign stated they already have a sign on their current operation and they would like to transfer that to the building. It is two feet by ten feet (2' x 10'). It would be on the building itself. For the road, they have not looked at what zoning allows but one hundred square feet (100²') should be sufficient.

Dwayne Hogan asked if it will be lighted.

Shaun Ensign stated he does not know if power exists out there, but they are looking at bringing three-phase into the building with REMC. They have also discussed bringing solar opportunities into signage. Perhaps something like this would be a good time to try it.

Melissa Mullins Mischke asked if they were to grant a one hundred square foot (100²') sign, would they like it lit?

Shaun Ensign stated yes, ideally. Or at least a caveat to allow it.

Melissa Mullins Mischke asked what the hours of operation would be?

Shaun Ensign stated they are typically a Monday – Friday operation 7 am – 5pm and Saturday they do sign insulations. Sign manufacturing could happen on a Saturday as well and typically Sunday is an off day. Six (6) days a week 7am – 5pm would be the hours.

Dwayne Hogan stated that since they are putting the signs up there will need to be an address sign as well.

Shaun Ensign stated it would be.

Dwayne Hogan stated he couldn't find the sign for it when he went there. He asked if the old semis that are there are going to be removed.

Shaun Ensign stated those are owned by the current tenant and they would be removed. They have plans to spruce up the property.

Glen Minich stated they are wanting to bring in three-phase power. What is the purpose in sign building?

Shaun Ensign stated a lot of sign manufacturing is welding. The main reason for the three-phase power is for a CNC router they operate. It will not run without it. That is the main basis for the three-phase, but they also want to look into bringing in a paint booth and that would also require three-phase.

Remonstrators:

Ed Kresel stated his address is 7548 W. Hwy. 6, Westville, IN.

Ed Kresel stated he is remonstrating because of the existing building that is there now was built and they added stone, gravel, ground asphalt, and their drainage now goes into the surrounding field which he farms. He has flooding and crop damage from the water that drains from this property. All four acres of the property drains into the field that exists beside it. Two year ago, he first noticed the grounded spots that occurred to the north and west.

Ed Kresel supplied the Board with pictures.

Melissa Mullins Mischke asked if he had a chance to speak with the County or MS4 coordinator regarding this issue.

Ed Kresel stated this was zoned agricultural and after the building was built and they added asphalt and stone, they put hard surfaces everywhere. Now when it rains it's just a flood. It happens in the field and they can't control it. The grade is such that it completely drains into the field. His problem is that if somebody is going to manufacture there, will they do some type of water management. It costs him money and it costs them nothing.

Melissa Mullins Mischke that from the photos, it does not look paved. It looks like stone and ground asphalt that has been packed down. They should work with MS4 and perhaps make a contingency to work with the drainage entity at the County to help alleviate that water run-off.

Ed Kresel stated that is what he is asking for. He didn't expect this to happen when they first built the building, but now that it has happened, he needs some type of relief.

Note: Ed Kresel built the aforementioned building.

Ed Kresel stated that in the first page of the pictures he supplied is a map of the trailer park before it was built on. The following picture shows the building and everything that is there. A lot of the tree lines have been removed and the grasses have been replaced with stone. The arrows showing dark areas exist now, but did not exist prior when it was a trailer park. The dark areas are intense parts and the surrounding areas also affect the crops. He loses approximately three to four (3 – 4) acres from flooding alone. In the back of the building, there is erosion that is occurring currently.

Melissa Mullins Mischke stated she sees what he's is talking about and that there may have been crop damage when it was still a mobile home park. They will take his information into consideration when they vote. She encouraged him to speak with MS4 Department at the County. They do help with water run-off and things of that nature.

Ed Kresel asked what MS4 is.

Attorney Biege stated it is the surface water management agency for the County.

Ed Kresel asked if they are located in the complex.

Melissa Mullins Mischke stated they are located at the Soil and Water Conservation Building. It is also the Purdue Extension Building.

Raymond Kresel stated his address is 2988 S. Hwy. 421, Westville, IN.

Raymond Kresel stated he owns all the property around the building except lot one (1) and twenty-three (23). He is concerned about it bringing down the value of his property if they bring in a manufacturing business. His is also concerned about the water drainage as well. On the front part of the property near the road, the current tenants use his property for a driveway. The State of Indiana addressed it with him for them using it without his permission. There are all kinds of problems with it. He doesn't know if they are going to build more buildings there because twenty-five (25) employees can do a lot of business there for the size that it currently is. He does not know what their intentions are for sure.

Shaun O'Brien, the business partner of Shaun Ensign, stated his address is 135 Wind Whistle Ct., Valparaiso, IN.

Shaun O'Brien stated that in regards to the Kresel's concern in regard to the front area, they intend to clean that area up and perhaps put in a berm to prevent people from driving anywhere other than the intended driveway. It will not be used as a turn around. As for the water drainage, that would be up to the surface water people and what they determine. The road was already there and he's not sure how much more is displaced because of the building.

Melissa Mullins Mischke stated it is the amount of impervious surface.

Shaun O'Brien stated that would be something for MS4 to consider. He didn't build the building. The building is going to stay; it's just if they buy it or not.

Melissa Mullins Mischke asked if that is something they would work on with the county with and address the drainage issues to the extent possible and recommended.

Shaun O'Brien stated they would need to address it rather quickly because if they need to put in a retention pond or something expensive like that, then he would not buy the building.

Attorney Biege stated this is a use variance, not developmental standards. If this were in agricultural zoning it would be allowed. He appreciated the neighbors concern about drainage, but that only factors in when they talk about construction or developmental standards. They are just talking about how the building is used and if they can use it in a different way.

Melissa Mullins Mischke thanked Attorney Biege.

Melissa Mullins Mischke asked if there would be additional building put on the property.

Shaun O'Brien stated this is his first building. He can't predict that at this time. It depends on how things go and address it at that time and get another variance at that time if need be. It's not even in his mind at the moment.

Glen Minich stated he doesn't understand how this building got built. The lines aren't always correct on Beacon, but this building is near the property line. How does that happen, this is a newly constructed barn? How can it be that close to the property line to where it is causing all these water problems? It should have been twenty-five feet (25') from the property line.

Annemarie Polan asked when this was built.

Glen Minich state it was only built within the last three years.

Annemarie Polan stated she does not have the permit in front of her so she cannot answer that currently.

Glen Minich stated it is in agriculture; how was it built like that?

Note: Upon researching this matter the following day, Annemarie Polan found that it was the remonstrator himself, Mr. Ed Kresel, who owned the land and applied for the building permit showing the required setbacks, but later changed them.

Dwayne Hogan stated he sees the concern.

Melissa Mullins Mischke stated it does look like there is some space to the rear of it.

Earl Cunningham asked if they know the distance from the building to the property line.

Shaun O'Brien stated he cannot answer that.

Glen Minich asked if Mr. Kresel has any insight into the building of this building.

Ed Kresel stated it is fifteen feet (15') to the property line. He can't be certain, but he believes that's what it is. It is not twenty-five feet (25').

Glen Minich asked if it should be twenty-five feet (25').

Annemarie Polan stated in agricultural zoning it is thirty feet (30').

Note: Agricultural zoning requires a thirty-foot (30') side setback and a fifty-foot (50') rear setback.

Melissa Mullins Mischke stated that is an issue that should be explored with the building department. It would be fascinating to know, but is not pertinent to this decision.

Earl Cunningham stated that at this point in time, the building will be there regardless and the run-off will be the same. Are there gutters on the rear of the building?

Greg Szybala stated yes.

Shaun O'Brien stated he does have an aerial of the back that shows down spouts.

Earl Cunningham stated if the downspouts run all the water off the roof into the field fifteen feet (15') away, that is part of the problem.

Melissa Mullins Mischke stated that is not something that is the decision of this board for this particular petition.

Melissa Mullins Mischke asked Annemarie Polan if she could provide history of this at the following meeting.

Glen Minich asked what Attorney Biege thinks.

Attorney Biege stated the building may be non-conforming with the setbacks, the building exists. They are not asking for developmental standards. They are only talking about use. They may need to go back and adjust it later, but that isn't the issue tonight.

Attorney Biege asked if there is a current tenant there now.

Shaun O'Brien stated yes. They may be agricultural mechanics.

Attorney Biege stated the use wouldn't be different. It would still be a business. If Annemarie's department goes out and inspects and something fell through the cracks and they are too close to

the boundary, the owner may have to get a variance. They should check that out and understand what it is before they close; whatever problem may or may not be there, they will be stuck with.

Earl Cunningham made a motion to approve the Petition for Variance of Use for Legacy Sign Group, LLC (buyer) and GH&J, LLC (seller) to operate a sign manufacturing business in the current building. The property is located at 7933 W. Hwy. 6, Westville, IN., New Durham Twp., zoned A on 4.05 acres.

Dwayne Hogan seconded.

All approved. Motion passed 5-0.

7. Petition for Variance of Developmental Standards for Kyle J. and Emily A.

Kirsch for construction of a primary residency with only forty-eight feet (48') of road frontage and to be the second residence on the 8.41 acres. Previous variance for road frontage granted April 18, 2017. The property is located at 3177 Smithfield Ln., LaPorte, IN., Scipio Twp., zoned R1B on 8.41 acres. Parcel 46-10-16-400-002.000-060.

Attorney Biege stated notice is adequate.

Kyle Kirsch stated his address is 2737 Smithfield Ct., LaPorte, IN.

Melissa Mullins Mischke asked if there is pole barn, not a house currently.

Kyle Kirsch stated it is a five thousand and five hundred square foot (5,500²) pole barn with one thousand square feet (1,000²) of living space for his parents.

Glen Minich asked how that is working out.

Kyle Kirsch stated wonderful. It could not have gone better.

Attorney Biege asked if he got a variance for that.

Kyle Kirsch stated he did for the road frontage.

Glen Minich stated at that time he was excluded from that subdivision.

Kyle Kirsch stated that is correct.

Glen Minich asked if something has changed. When they granted the variance for the barn there was no talk about build a home on this lot.

Kyle Kirsch stated there was not at that time, but things have changed recently. For financial reasons, having two properties with property taxes and insurance, it makes more sense to make this parcel his primary residence. He can focus all his efforts and finances into making this property look nice rather than working on both.

Glen Minich asked if his parents have an address.

Kyle Kirsch stated yes.

Glen Minich asked if his address would be the same.

Kyle Kirsch stated it would be. He doesn't think he can put two different addresses on one property.

Melissa Mullins Mischke stated you can.

Kyle Kirsch stated then he would get an additional address.

Earl Cunningham stated it would be helpful to the fire department.

Melissa Mullins Mischke stated the Building Department will help with the address.

Earl Cunningham asked if there would be a separate well and septic.

Kyle Kirsch stated yes. It was originally platted to have twelve (12) other lots there so it could take that many wells and septic's so it should sufficiently take two (2).

Melissa Mullins Mischke asked about his primary residence; is that this property.

Kyle Kirsch stated his primary residence is located in the corner, west of the barn. He lives there now. They are two separate properties. The home he lives in is in the subdivision just shy of one (1) acre and then there is separate eight-point-four (8.4) acres.

No remonstrators present.

Greg Szybala asked if there will be any further development of the property after this.

Kyle Kirsch stated he is not allowed to divide the property per the last variance.

Glen Minich stated he thinks Mr. Kirsch volunteered that.

Kyle Kirsch stated he did not, it was a member of the Board.

Earl Cunningham stated in the previous minutes Glen Minich made the motion not to subdivide the property.

Melissa Mullins Mischke stated that as part of the motion that no further construction occurs on the property.

Glen Minich stated he could come back for an accessory structure though.

Melisa Mullins Mischke stated he could, but no more residence should be allowed.

Kyle Kirsch stated he built all of these himself and this will be the last thing he builds.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Kyle J. and Emily A. Kirsch for construction of a primary residency with only forty-eight feet (48') of road frontage and to be the second residence on the 8.41 acres. Must obtain a separate address and will be the final residence on the property. The property is located at 3177 Smithfield Ln., LaPorte, IN., Scipio Twp., zoned R1B on 8.41 acres.

Earl Cunningham seconded.

All approved. Motion passed 5-0.

8. Petition for Variance of Developmental Standards for Ramm Family Trust, Michael O'Hern for construction of a new home with the setbacks of sixteen feet (16') in the fronts and ten feet (10') in the rear instead of the minimum of twenty-five feet (25'). The property is located at 106 Island Dr., LaPorte, IN., Center Twp., zoned R1B. Parcel 46-06-27-151-003.000-042.

Attorney Biege stated there are signatures of the adjoining landowners and the publication, but it was published on August 13th and the requirement is ten (10) days prior. The Board can choose to waive that.

Melissa Mullins Mischke asked if they want to hear it.

The Board unanimously agreed to hear it based that all the neighbors were personally notified and signed off.

Michael O'Hern state his address is 106 Island Drive, LaPorte, IN.

Melissa Mullins Mischke asked what has happened to this property that makes it unique that he as to build this close to the setbacks.

Michael O'Hern stated they are currently that close to the setbacks. There is a pond to the rear and the road in the front which splits the property. He would love to close the road down, but unfortunately, he does not have that option. The garage door will still be twenty-five feet (25') from the edge of the road. Currently it is twenty-eight feet (28'). They will be moving it a bit backward, but there is a pond and no property owner behind that.

Dwayne Hogan asked how close the retaining wall in the back is.

Michael O'Hern stated they will be thirteen feet (13') from the retaining wall.

Dwayne Hogan stated he walked it and it was really close.

Michael O'Hern stated the retaining wall is sixteen-foot (16') eight (8) gauge steel. It was done for the purpose of future development. The footings will be wider than required. There will not be concrete in the back.

Dwayne Hogan asked if the other house will stay there.

Michael O'Hern stated no, the other house will be demolished. The diagram shows the new house in red. They bought the adjacent home and tore it down. They joined the lots and will build in the middle of the two. They will center it and increasing their side lot variance from four feet (4') to thirteen feet (13').

Melissa Mullins Mischke stated neither are twenty-five feet (25').

Michael O'Hern stated he believes side setbacks are only ten feet (10').

Melissa Mullins Mischke stated the rear is twenty-five feet (25').

Michael O'Hern stated if they were within the setbacks, they could only have a twenty-five-foot (25') wide house which is barely enough for a garage.

No remonstrators present.

Earl Cunningham stated potential remonstrators are his neighbors who are all in violation of their policy as well.

Melissa Mullins Mischke agreed.

Michael O'Hern stated that when the zoning was written, R1E would have been more appropriate than R1B.

Melissa Mullins Mischke stated just because it is a practice that has been accepted in the past does not mean that they want to continue it in the future.

Glen Minich stated he does not have a problem with the rear setback, but the front setbacks are there for everybody's safety. It allows time for people to see. It is a safety issue. It's on a main road going into the island.

Michael O'Hern stated yes, but he has a neighbor whose garage is sixteen feet (16') from the road and they can't put a full car in it. They are well within the setbacks of the neighbors.

Melissa Mullins Mischke reiterated that just because they have done it in the past does not mean it is something they want to continue.

Michael O'Hern stated he understands, but it is in alignment with all of the other homes. He is not asking to go beyond the neighborhood's front alignment of the homes.

Earl Cunningham stated it would be no more dangerous than the existing neighbors.

Michael O'Hern stated that with the thirteen feet (13') on the side, the driveway will be to the side of the home.

Greg Szybala asked if the garage would be front load.

Michael O'Hern stated it would be a front load garage, but in terms of parking, they now have the thirteen feet (13') on the side of the home they can utilize. On the weekend, they park the cars off to the side or across the street. They are cognitive of blocking views for safety reasons.

Earl Cunningham made a motion to approve the Petition for Variance of Developmental Standards for Ramm Family Trust, Michael O'Hern for construction of a new home with the setbacks of sixteen feet (16') in the fronts and ten feet (10') in the rear instead of the minimum of twenty-five feet (25'). The property is located at 106 Island Dr., LaPorte, IN., Center Twp., zoned R1B.

Dwayne Hogan seconded

Approved. Motion passed 3-2.

3. Petition for Special Exception for Daniel Versaw to operate a sand mining business. The property is located between 666 and 998 E. 1000 N., LaPorte, IN., Galena Twp., zoned A on a combined 40 acres. Parcels 46-03-18-200-002.000-048(20 acres), 46-03-18-2000-003.000-048(10 acres), and 46-03-18-200-004.000-048(10 acres).

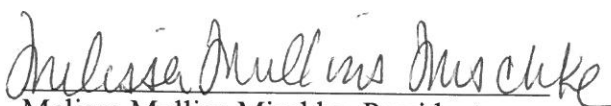
Earl Cunningham made a motion to table the Petition for Special Exception for Daniel Versaw to operate a sand mining business. The property is located between 666 and 998 E. 1000 N., LaPorte, IN., Galena Twp., zoned A on a combined 40 acres. Petition tabled to the September meeting.


Greg Szybala seconded.

All approved. Motion passed 5-0.

Melissa Mullins Mischke asked if there is any further business before the Board this evening.

There being no further business, meeting adjourned at 6:42 p.m.


Melissa Mullins Mischke, President


Annemarie Polan, Recording Secretary