



**LAPORTE COUNTY  
BOARD OF ZONING APPEALS**

Government Complex, 5th Level  
809 State Street, Suite 503 A  
LaPorte, Indiana 46350-3391  
(219) 326-6808, Ext. 2591, 2563 & 2221  
Fax: (219) 362-5561

**Michael Polan**  
Building Commissioner

January 16<sup>th</sup>, 2024

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **January 16<sup>th</sup>, 2024, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT:      Melissa Mullins Mischke      Ernie Schmidt  
   Deb Vance    Vern Schafer

PRESENT:                      Michael Polan, Recording Secretary, Attorney Doug Biege

The Pledge of Allegiance.

Melissa Mullins Mischke stated they are going to postpone elections until their next meeting when they have a full Board. If anybody is there for Petition #2 for Ralph Bradley will be tabled until the February meeting. If they are here for Petition #3, the Special Exception for Emory Investments, has been withdrawn. With that, she would like to welcome their new member, Ernie Schmidt.

**APPROVAL OF MINUTES:**

Melissa Mullins Mischke asked for approval of the meeting minutes of December 19<sup>th</sup>, 2023.

Vern Schafer made a motion to approve the meeting minutes as presented.

Deb Vance seconded.

All Approved. Motion carries 4-0

**Petitions:**

**1. Petition for Variances of Developmental Standards, Use, and Special Exception for 421 Westville LLC** to construct an indoor self-storage facility, allow outdoor storage, to allow buildings and parking within 40 feet of an adjacent residential zoning district, to remove the requirement of placing a wrought iron or similar decorative fencing and evergreen planting for area of the facility adjacent to residential districts, to waive the parking lot landscaping requirements, and to waive the parking lot screening requirement. This property is located at 3439 S. Hwy 421, Westville, IN., New Durham Twp., zoned B2 on 8.34 acres. Parcel 46-09-21-100-041.000-027.

Attorney Biege stated notice is adequate.

Anthony Novak stated he is an attorney with Newby, Lewis, Kaminski, and Jones in LaPorte. He is here tonight on behalf of 421 Westville LLC who is the applicant tonight. He is here on behalf of the LLC as its owner Joann Bachewicz who is present tonight. A brief background of Joann before he gets into the actual application; she is a commercial developer with extensive experience and has lived in Westville the last ten (10) years. She has chosen to help and grow Westville with some of the actions that she has taken as of late. She currently has the following holdings in LaPorte County just for reference: two (2) Subway's in Michigan City, one (1) in Westville, a commercial property in Michigan City; she has purchased four (4) pieces of land for development in the last twelve (12) months on the 421 Corridor. She is owner of Westville Meat & Grocery and is also the owner of the commercial property where that Meat & Grocery, Subway, and Jiu-Jitsu is located. They are here tonight as shown on the agenda asking for some requests related to a self-storage facility on 421 and 2 near the Dollar General. This petition might look familiar to some of them. The original petition was filed June 1<sup>st</sup> of 2023 and was ultimately approved June 20<sup>th</sup> of 2023. Exhibit B is their original petition. Exhibit 3 are the Findings of Fact that were approved. He won't be referencing those, but they are exhibits if they need them for any reason. Following their approval in June of 2023, the property was replated. There were some purchases of real estate. Drawings for Phase 1 of the three (3) phase development was sent down State and they were approved. A building permit was issued and construction commenced. Then there were some complaints from a neighbor and the building was ultimately red tagged. He is not aware of specifically what was said, but he understands the idea was that the petition was related to a specific piece of property and development started occurring outside of that property and therefore a red tag was issued. Joann reached out to him in December of last year so a month ago. They talked about the issues and his recommendation was that they ultimately file this amended petition so that they could clean things up. Notably two (2) things. First, he does admit he was not involved in the first petition, but he does admit that it was not explicit or clear precisely the property that was being developed. There was a piece of parcel that was about six (6) acres and that parcel ID was referenced. In Joann's defense, if they flip through that petition, there was an actual Beacon drawing that not only shows that acreage, but then an additional two (2) acres that she purchased where she indicated development would occur there, but that parcel ID wasn't referenced in the petition and therefore that is one (1) of the reasons they are there tonight. Subsequent to the June 2023 meeting, she closed on the two (2) additional lots. She then replated the property as he referenced before and combined them all and now, they are looking at an eight-point-three-four (8.34) acre parcel which has its own tax ID and where the development will occur. Second, this was more of a minor point, but there was some confusion on outdoor storage and whether or not it was a use that needed a variance or was permitted. She was under the impression and was informed that it was permitted. It's not. So, she is ultimately asking for a Use Variance tonight for some potential of outdoor storage she may have on the development. A little bit about this petition itself, the property is zoned B2 and indoor self-storage facilities require a Special Exception. In addition, when there are Special Exceptions sometimes there are use requirements under Article 14 that they have to comply with. Article 14.13(c) for indoor facilities are his development standards variances. All of those are going to be withdrawn. He was under the misconception that this property was immediately adjacent to a residential property; it is not. It is bordered by B2 property and Ag property so it is

not adjacent to residential. The wrought iron fence and all the other things are only needed if the development is adjacent to residential so he is going to withdraw that so he is just asking for a Special Exception for indoor storage and a Use Variance for outdoor storage. So, the development itself is attached as Exhibit 1. That is their site plan that was prepared by Tony Hendricks. It is a three (3) phase project with a total of thirteen (13) buildings to be constructed. Some will be climate controlled and others will be non-climate control. So, for a unit in a climate-controlled building, they would access it through a door and walk through a hallway and go to the unit. For the non-climate controlled it will be the standard nine-foot by seven-foot (9' x 7') garage door where they can pull up to the actual unit, open the door themselves, and then access whatever the contents are. There is a possibility to do outdoor storage like parking for motor homes or boats, but whether or not that occurs is unknown at this time. It would be possible in Phase 1 if they don't build one (1) of the eight (8) buildings. It's also possible in Phase 2 or 3 if they don't build those buildings. They don't know if they need it, but they want to make sure they asked for that use variance to be clear. Finally, the driveway between the buildings. That will be a mixture of crushed concrete and millings to help with drainage. This is a perfect time to transition into drainage which has been an issue that has come up. As he indicated, Tony Hendricks was the one (1) that prepared the site plan so he spoke with him yesterday given that he prepared the site plan and is somewhat of a drainage guru. He asked if he could be here tonight, but he is teaching a class at PNW, coincidentally about drainage. The site plan that is drawn up has a nearly forty-three thousand cubic foot (43,000<sup>3</sup>) stormwater detention basin on the northwest corner of the property which would be north of the Dollar General. In addition, he has two (2) detention stormwater ponds on the south side of the development and then two (2) on the west side of the development along 421. It appears the main concerns in talking with the attorney Chuck Parkinson and his client the Fath's relate to the northern most detention pond that is close to Thelma Fath's property, specifically that the detention pond has a four-inch (4") drain pipe that will drain into their property and second, they are concerned about pond overflow. He asked Tony if he could prepare some remarks and he will paraphrase them, but he wanted to explain this about the actual drainage plan. *"The natural flow of water from this site is northwest across the property onto the Fath's. That's just how God made this land and that's how this is working. Then it goes along and into a swale along the roadway. The existing flow for all rain events from the field flow along this route for all events whether it is a two (2) year, ten (10) year, hundred (100) year, five hundred (500) year event, etc. Given that, the detention basin is positioned exactly where it needs to be to catch the flow of water given it is the natural flow. Having the detention pond will hold the surface stormwater there as to not adversely affect the downstream owners. LaPorte County has a two (2) year pre-existing condition storm release and a one hundred (100) year post-condition stormwater requirements. This pond as designed far exceeds the hundred (100) year storm and the outflow is minimal for a four-inch (4") pipe. This plan reduces the normal existing condition storm water from a one hundred (100) year storm to a two (2) year storm so that the water runoff onto their property is drastically reduced. Stormwater leaves in one (1) of three (3) ways: natural flow through the ground, evaporation, or infiltration either through soaking into soil or vegetation and utilizing natural growth in the pond. The runoff along the ground through the outlet pipe doesn't use any extra relief as designed from evaporation or soil infiltration, which is soaking into the ground. Not using these other factors means that the pond is larger than needed meaning it is more conservative than required and rain events beyond the one hundred (100) year events would be handled in the pond with no overflow."* Despite this, it was asked of them if

they could redesign the drainage components. First, he does want to be clear that it is not needed given the drainage plans are adequate as designed, but for the sake of discussion, moving the outlet pipe would require from adjoining land owners that they don't control nor do they have authority over. That is assuming INDOT would issue a permit there. Given it is not required that they could even do this, it is not an option they have even entertained. They may see on the site plan that there is a tiny strip of land just north of the Dollar General about seven feet (7') wide that they can access 421. Tony has looked at that; it is very tight and there are a lot of trees and the natural topography is extremely expensive to fit it through there. Not to discount the fact that there are trees right there that would be very difficult to take down. Tony said even NIPSCO entertained going through there and it was too expensive to do so. With all that being said, Tony did say if the Board would want, they could install a velocity reducing gravel weir that could be installed to dissipate any concern about energy from a four-inch (4") pipe outlet. All of that is over his head. In conclusion, they are simply asking for two (2) things tonight: approval that the Special Exception is approved and a Use Variance for outdoor storage. He is available for further questions as is Joann and others.

Melissa Mullins Mischke stated in Phase 1 they are going to do eight (8) buildings.

Anthony Novak stated correct.

Melissa Mullins Mischke stated they will be inside storage.

Anthony Novak stated there will be five (5) climate controlled and three non-climate controlled. Perhaps Bob could come up and explain better.

Bob Kiger stated his address is 754 S. Forrester Rd., LaPorte, IN. There will be three (3) climate Controlled and five (5) non-conditioned in Phase 1.

Melissa Mullins Mischke asked where the entrance is at on the site plan.

Bob Kiger stated half of the Dollar General's driveway is deeded to them so that is their deeded driveway and it is constructed already with the construction driveway that meets the County specs.

Melissa Mullins Mischke stated okay. What is the time frame for Phase 1 to start?

Bob Kiger stated they have permits from the County and the State for four (4) buildings. Two (2) non and two (2) climate. That is weather permitting and roughly the next two to three (2 – 3) months and then they will go to the next part of Phase 1. So, six to eight (6 – 8) months give or take. They want to rent at least fifty percent (50%) of those first and then they will start the next set of units and they still have to get State permits for the next five (5) units.

Melissa Mullins Mischke asked Michael Polan if he has had a chance to look at the stormwater detention calculation. Does it look adequate to him?

Michael Polan stated the MS4 site preparations are adequate. The stormwater calculations appear to meet the criteria, but he isn't an engineer and he didn't do an engineering review on it.

Melissa Mullins Mischke stated she agrees. They looked okay to her too, but she only plays an engineer on TV.

Vern Schafer asked if the Special Exception that they are granting here is for the storage units themselves because it's not zoned for storage units. Is that's what he's telling him? He is a little cloudy on this.

Attorney Biege stated the way the code is set up is a little quirky frankly. This probably got by them when they were drafting, but for indoor storage it is a Special Exception in B2. A Special Exception means it's allowed, but they mark it as a Special Exception because it was something that at the time, they felt they wanted the BZA to take a harder look at. It's permitted, but they want him to take a closer look. Then on the outside storage that is permitted in B2.

Vern Schafer stated the requirement for a facility like this with a wrought iron fence is not even under consideration here.

Attorney Biege stated correct. They have withdrawn all those requests.

Anthony Novak stated to clarify, he thought the issue lied that if there was outdoor storage, it was not permitted therefore requiring a Use Variance.

Attorney Biege stated you're right. Outdoor storage is not allowed; that is the Use Variance. Then the indoor requires a Special Exception.

Michael Polan stated to him, they had this case in front of the Board previously and it was ruled upon. When construction started and calls started coming into the office, there were questions asked to himself and his staff that he couldn't answer. There was enough confusion of the situation because of surveys and lot lines questions that he felt it was best to stop it and bring them back before the Board to clean up what the petition is asking for, provide clarity and transparency, and get a new ruling from the Board. If he could just add that since he didn't take roll call for the record that all Board members are present, they are just down one (1) member which they expect to be appointed soon.

Melissa Mullins Mischke stated thank you.

**Remonstrators:**

Charles Parkinson stated his address is 107 Broadway, Chesterton, IN. He is an attorney at Harris, Walsh, and Lukmann. He is there on behalf of Thelma Fath and New Durham Associates. Thelma Fath is property owner owning property immediately north of the subject parcel. Thelma would have been noticed for the public hearing in June had the Special Exception then sought for that parcel. They didn't grant the Special Exception for the parcel that is immediately south of hers. They granted the Special Exception for property south of that. What happened, if he can

clarify the record, was that the Petitioner basically mission creeped. They started building on the norther parcel without the Special Exception. So, again he is there for Thelma Fath and New Durham Associates. He is joined of Tom and Gary Fath of New Durham Associates and also by Charlie Ray of Duneland Group. He is an engineer. He can speak more on some of the engineering issues that are of concern here. Again, they are here because they have requested a Special Exception for the property that they didn't get a special exception for in June.

Melissa Mullins Mischke stated she thinks they are all clear on that point.

Charles Parkinson stated he got from Mr. Polan that somehow there was some confusion in the record. He is glad that there is not a request for the Development Standard Variances because the question about whether they actually adjoin a residential district; they don't because there is a farmland in between that is zoned agricultural. That's not to say that those same issues aren't of concern to Thelma Fath's property that is residential and but for that small agricultural strip they would have to get those Development Standards because they want to shield these kinds of uses from residential properties. For example, if there is going to be outdoor storage or even indoor storage units, they want to have a buffer between those types of uses and the residential uses. That's not to say they can't impose as a condition of granting of the Special Exception that they do that buffering and they would encourage them to consider that if they are going to grant the Special Exception to permit the indoor storage or the Use Variance to grant the outdoor storage, that they consider requiring the Petitioner to put some kind of screening, landscaping, or whatever. He thinks it's a good idea because but for that small little agricultural farm lane, there is residential to the north. It is certainly the same kind of concerns that they should consider when they have these adjoining uses should be considered this evening. With respect to the Use Variance, they don't know what they are asking for. They haven't really identified what will be stored outside or where it will be stored on the property or how much, et cetera. Right now, they have calculated the density, meaning the impermeable surface area considering all the buildings and parking at about seventy-two percent (72%). If they add outdoor storage to this use, there is a lot of impermeable surface area so he would ask them to consider what they are asking for in terms of the outdoor storage. It has not been defined. They have a site plan that identifies the indoor storage, but they are really buying a pig and a poke here because they have no clue based on the petition and nothing that they have said this evening how much outdoor storage is being requested. Primarily though, the concern here is with the drainage. He is not an engineer and he doesn't pretend to be one (1); that is why Charlie is here tonight. He will tell them that the detention pond is not something that gradually releases. It releases all the time. There is a four-inch (4") pipe that is going to release from this detention pond onto that farm lane and then onto Thelma's property. With respect to whether there is an alternate plan, it is unfortunate that this has to come here because this is typically something that the Plan Commission would deal with when they consider platting property, but he supposed it was a minor plat that didn't go through that process perhaps or maybe this is something that needs to be considered when there is a building permit issued, but there is a drainage concern and it is going to require professional review to determine whether this is going to impact the neighboring properties. That is their concern. The detention pond necessarily drains through a four-inch (4") pipe to the north onto Thelma's property. There are alternatives. He has spoken with Mr. Novak. The seven-foot (7') strip is not the only access point that the petition has to 421. Tom Fath is going to get up and talk a little bit about what the State has done and why they did it to improve the drainage along 421,

but it is precisely for uses like this that the State undertook drainage improvements along 421. This parcel should drain to 421. It should not drain to the north onto Thelma Fath's property. There are access points. There is a seven-foot (7') strip of land that goes from this parcel out to 421 and the Petitioner also owns the parcel immediately north to that so in terms of getting an easement or permission to run the drainage from the subject site to 421 is possible. Is it a little bit more expensive? Maybe, but that isn't their concern and it certainly is not a hardship that the Petitioner can claim here. They would just build it right into the cost of the storage units. So, again he would ask them that if they are going to consider granting the Special Exception that they do so with conditions. First, that they screen the use and screen the property from the adjoining residential use which is simply right across the farmland. Secondly, that they be required to drain this out to 421 as opposed to this detention pond that they have proposed. At this time, he would ask Charlie Ray to talk a little bit more about that detention pond.

Charlie Ray stated his address is 1498 Oak Ct., Chesterton, IN. He is an engineer with Duneland Group. His company does land development and they also worked with the Fath's on their development in Westville. They looked at this and the problem they have had all along is that their ponds overflow when there is a heavy rainstorm. What the State did when they put in the highway expansion, they put in a drainage system to take all the water to Crumpacker Ditch from that point going south. From that point going north, which is Thelma Fath's property, that would go to the ponds on the New Durham Estate property. Having this drain to that actually increases the amount of water that would go to that particular pond. He knows that they ran it on the computers and the pond is sized to handle the flow, but what they have to realize is that this is a detention pond which means that as water flows in there is water flowing out. Water doesn't just evaporate away during a rain storm. The quantity of water going in is metered out at a small rate which means that it is held in the pond until it drains down to where it should go. So, the water that is coming on that particular property will drain onto the Fath property and they looked at different ways to move it out to 421 and it doesn't seem like it is an insurmountable task to do. He can share things with them, but they may not even be concerned about it. As far as evaporation and infiltration, he doesn't think a study was done on the infiltration rate of the water out there. Westville is peculiar because there are areas that have a high infiltration rate and the water drains into the ground right away. There are other parcels or other areas out there that have nothing but clay which don't drain really well at all. So, not knowing that, they can only assume that they did not want the water to come all onto the Fath property. The other problem too is if for some reason the four-inch (4") pipe gets plugged, which they have done a lot of sand pipes and projects and over one hundred and fifty (150) subdivisions, if that four-inch (4") pipe gets plugged then the pond fills up all the way and then runs over a spillway which then would run onto their property too. So, all in all, all this water would eventually go to there to that property. Now, the rest of the development that they are planning here goes to other ponds that don't really affect the Fath property. He thinks that some rerouting which they have done a few sketches for could take care of the problem. He doesn't think they are overly super costly either. Do they have any questions?

Vern Schafer stated his understanding originally was that a lot of this property drained that way originally anyway.

Charlie Ray stated that's not exactly true.

Vern Schafer stated that is the way it was explained to them anyway.

Charlie Ray stated that property, especially in this area right there, there is a big mound of dirt so the water would drain to the back to the farm field and it would drain to the front towards the road and it would also drain over to the Fath property. So yes, there is water that would drain to the Fath property and they realize that, but what they are doing is turning all of that area into impervious surface which means it is a huge runoff. Now instead of part of it going to the back and part of it going to the side because of the mounding, they have flattened the whole site. Now all of it will run to the pond and that will run over to the Fath property.

Vern Schafer stated he understands that. He also understands when they put roofs on buildings that they are not permeable surfaces anymore.

Charlie Ray stated no. In fact, the really sad thing is that people think that gravel is a pervious surface, but over the years it picks up dust and fines and cars driving on it and it turns into an impervious surface.

Tom Fath stated his address is 9595 W. 500 S., Westville, IN. He is representing his grandma Thelma Fath and also New Durham Associates LLC. He has been working for New Durham for ten (10) years. Their family has been in business since 1967. They have close to a thousand (1,000) residents that live in their community and it is about a third ( $\frac{1}{3}$ ) of the Town of Westville. They have been dealing with storm drainage for a long time and it is something they find very concerning when they see different things, but they do their best to find improvements to make everything better for everyone. He wanted to go through real quick, when the State Highway project emerged 421 went from two (2) lanes to five (5) lanes so there was a lot of added water that was going to go into Lake Thelma so their family along with the State and LaPorte County had a lot of discussion about if it would impact it more and where the water would be going. One of the solutions the State of Indiana came up with was diverting a lot of the water from like Dollar General, for instance, they have a detention pond that discharges to the State Highway which went into Lake Thelma. Now, they changed the drainage to where it all goes south a lot sooner. They actually took storm pipe through a hill to make sure it goes south so they weren't taking on all the extra water as the development took place. Even when they did this with the State Highway, it didn't help them. They were already having drainage issues; it just kept it from adding more water to their storm system. The break point is right in that area and that's why it is really important to them to address them to them all and hopefully they consider it. They are just trying to make it the best area they can over there and that's the main thing they are focused on so he appreciates it.

Melissa Mullins Mischke stated thank you, Tom. Anthony, if they would like to come back up and maybe address some of the concerns.

Anthony Novak stated some are minor. One (1) of the initial points was whether they gave adequate notice at the first hearing and whether or not Thelma Fath would be entitled to notice. Even if they included those two (2) additional parcels, she wouldn't be entitled to notice. The code as written says adjacent land owners have to be notified and that's what they have done and



that's what they would have done there. He does want to clarify the request on outdoor storage and he thinks there is some confusion that lies with his client here on something that will be clarified in favor of what they are doing here. Bob believes after talking with Doug sometimes that when they talk about indoor self-storage facilities that need a Special Exception that is anything that is climate-controlled. He thought that if it is not climate-controlled even if it is in an enclosed building that that is considered outdoor storage. He doesn't believe that is the case. The code itself talks about a Special Exception needed for "self-storage facilities, indoor." He went to Article 31 and went through all the definitions and looked and there is no clarifying thing. His legal opinion is that anything that is in an enclosed building is indoor storage that requires a Special Exception. Outdoor storage would be an exposed piece of property that is stored outdoors. He will fall on the sword here because it was his understanding that they were going to be parking boats outdoors. They were going to be parking motor homes outdoors, but Bob has indicated that is not the case. Everything is going to just strictly be in buildings; it's just that he thought outdoor storage was non-climate controlled structures. Given that, he is a little hesitant on saying he would withdraw his use variance request. He just wants to be clear that they are seeking approval whether it is through a Use Variance or through a Special Exception to have up to thirteen (13) buildings, some of which are climate controlled and some of which are non-climate controlled. He is willing to say that as a condition that there will be no property stored outdoors not in an enclosed structure.

Melissa Mullins Mischke stated okay.

Anthony Novak stated when it comes to drainage, again the person that has prepared this site plan is Tony Hendricks. He would love for Tony to be here. Tony has extensive experience doing this and he is very familiar with the ins and outs of it. He gave him a very in-depth background. He understands that there are other places that they can go. However, there are specific, very detailed requirements that site plans must include under Article 23. They have met all of those. The request before them tonight, as Doug has indicated, the use is appropriate for this area; it is just peculiar enough that the Board should have oversight in saying yes or no. Ultimately when it comes to drainage, those are things that are going to be reviewed by the Building Department whether or not something is adequate. He understands that the drainage concerns are a concern, but he does just want to clarify and direct their attention that the request is just simply whether or not the Special Exception itself is approved and can move forward. He would rest on the qualifications of Tony that everything that is prepared is adequate.

Melissa Mullins Mischke stated thank you.

Vern Schafer stated looking here at the aerial photos, he needs some clarification on which direction the water is going. Can somebody please show him on the picture?

*Bob Kiger approaches the Board to indicate the drainage flow on the aerial.*

Melissa Mullins Mischke stated she agrees the eight and a half by eleven (8½" x 11") is really difficult to see. She was trying to find the elevation of the drainage pipe on that north detention pond and she couldn't.

Anthony Novak stated he is sorry. He does have it electronically if they would like it.

*Bob Kiger discusses the drainage flow with Vern Schafer.*

Vern Schafer stated another thing, going out of there with the four-inch (4") drain pipe, it is going where. Where does it exit to?

Bob Kiger stated just right to the northwest corner to natural grade. Mr. Biege has a blown-up area. The strip and the rear are Mr. Parkman's and then to the north is the Fath's have their outdoor storage now with motor homes and boats so there is a patch that goes between to Mr. Parkman's property in the rear.

Vern Schafer stated it is designed by Mr. Hendricks.

Bob Kiger stated correct.

Vern Schafer stated it is more of a drainage background. Thank you. He now sees where the pipe is and it goes out onto the driveway which is access to Mr. Parkman's farmland.

Melissa Mullins Mischke asked Michael Polan for clarification if the process for this is still where they can grant an exception, but they will still need to get the building permit approved that includes drainage plans with the MS4 Coordinator. Is that true? There are still checks and balances; they just approve the Special Exception or Variance. She thinks that is important for everybody to understand.

Michael Polan stated that is correct. What he is hearing here today between the two (2) sides is that the drainage calculations, both sides agree that the drainage pond meets the criteria. The one (1) side has a concern that either that is not enough or they still would like consideration of a different drainage plan. All they are going to do is that it will meet the criteria. They don't have legal authority to go beyond that.

Melissa Mullins Mischke stated exactly, that is what she wanted to clarify too. That is not information that the Board takes into consideration when they make a determination on a variance. She thinks that is important for everyone to know.

Vern Schafer stated there was a request for maybe a partial buffer or a fence on the north end of the property. He sees that there is a potential to use that north driveway which isn't really part of this property to access this property. By putting a fence on the north side, it would eliminate traffic possibly going into that driveway that is not part of this property. Do they agree with that? He hasn't been on the property and put feet on it, but he sees that the buffer on the north side that belongs to Mr. Parkman is not an access to this property.

Bob Kiger stated correct, it is not.

Vern Schafer stated he doesn't know how they keep people from using it as an access to it.

Bob Kiger stated they could go through the Dollar General parking lot and access it also too. He understands his point, but they can't.

Vern Schafer stated if there was a fence along that part of the property, they couldn't get out into that access; they would have to go in through the gate so to speak.

Melissa Mullins Mischke stated through the Dollar General.

Vern Schafer stated they couldn't go through the Dollar General either to get to this property.

Melissa Mullins Mischke stated it is a shared driveway with the Dollar General.

Bob Kiger stated correct, they have half.

Melissa Mullins Mischke stated that is their entrance.

Bob Kiger stated that is their deeded entrance, correct. That will be their main entrance and only entrance to the mini storages of these eight (8).

Vern Schafer stated but he understands what he is saying that if they have open space to the north and people can exit that way, they will go out through that end of the property.

Bob Kiger stated they won't be able to access it. There will be a retention and a little bit of a ditch there so they will not be able to drive through. They could physically walk through, yes, but they could also walk through Mr. Parkman's back property or somebody else.

Vern Schafer stated so there is a depression there that they can't cross.

Bob Kiger stated correct. There is an elevation change between the mini storage and Mr. Parkman's driveway. Correct.

Vern Schafer stated okay. That was a concern of his.

Vern Schafer made a motion to approve the Petition for Variances of Developmental Standards, Use, and Special Exception for 421 Westville LLC to construct an indoor self-storage facility. There is to be no outdoor storage including storage of campers or boats. This property is located at 3439 S. Hwy 421, Westville, IN., New Durham Twp., zoned B2 on 8.34 acres.

Deb Vance seconded.

All Approved. Motion carries 4-0.

Melissa Mullins Mischke stated good luck. She recommends that they work with the engineers and maybe the neighbors for their drainage issues before they present them. Thank you

**2. Petition for Variance of Use for Ralph Bradley** to operate a garden center. This property is located at 9777 N. 375 W., Michigan City, IN., Springfield Twp., zoned R1B on 17.213 acres. Parcel 46-02-16-126-018.000-062. **TABLED TO FEBRUARY**

Melissa Mullins Mischke stated Petition #2 has been tabled until February.

**3. Petition for Special Exception for Emory Investments LLC** for de-packing of hand sanitizer, removing liquid from plastic package. Processing in general. Please see attached. This property is located at 3522 S. SR 104, LaPorte, IN., Pleasant Twp., zoned M1 on 29 acres. Parcel 46-11-23-476-004.000-057. **WITHDRAWN**

Melissa Mullins Mischke stated Petition #3 has been withdrawn.

**4. Petition for Variance of Special Exception for Roger and Nancy Burns** for keeping of chickens. This property is located at 9171 S. 400 W., Union Mills, IN., Noble Twp., zoned A on 1.97 acres. Parcel 46-14-21-100-022.000-056.

Attorney Biege stated notice is adequate.

Linda Chipman stated she is the daughter of Roger and Nancy Burns. She does not live in Indiana. Her address is 27W251 Bolles Ave., Winfield, IL.

Melissa Mullins Mischke stated the chickens are already there.

Linda Chipman stated yes.

Melissa Mullins Mischke stated she understands the neighbors are not happy because she does have some remonstrance in written form that they will enter into the record.

Linda Chipman stated yes.

Melissa Mullins Mischke asked her to explain what the situation is and how they want to proceed ideally.

Linda Chipman stated okay. She has it written out if that is okay to tell their story.

Melissa Mullins Mischke stated just make sure she does it in the microphone. Tom, can you please close the door on your way out.

Linda Chipman stated one (1) evening in November of last year, her eight-two (82) year old parents Roger and Nancy Burns fell outside their home. Her mom was trying to help her dad up the stairs into the house and unfortunately the fall broke her mom's ankle so she was unable to get into the house where she had just put the cell phone. Her dad's diabetes had caused him to have low blood sugar after their long day out so he had no strength to climb the stairs or to get back into the vehicle which was blocking their view to the road. It was a long night outside in the country with no neighbor or passerby noticing them. They cried out and prayed for help. God

heard their prayer. A friend they hadn't seen for many years from their previous neighborhood just happened to be driving by their house late the next morning and she thought to look their direction. Though her view was partially blocked by the vehicle, mom's waving arm caught her attention. Initially, unsure what the gesture meant she passed by, but when she spotted dad under the bush she came back. Pulling into the driveway she saw her parents' dire situation and called for help. After a hospital stay and almost three (3) months in Miller's Rehab, her parents returned to their home at the end of January, but were very weak and unable to do much for themselves. Their four (4) children ages eleven to nineteen (11 – 19), three (3) of which are present, and her husband was left in charge of their home in Illinois and they basically moved in with her parents as caregivers. Regaining the ability to navigate daily basics seemed insurmountable to her parents and they needed encouragement and needed a distraction. In February, as part of their care for them, they bought a chicken coop and retrieved four (4) chickens they had hatched to be therapy for them and to provide interest. In the summer, they added seven (7) baby chicks which they bought from a neighbor. They had no idea of the zoning restrictions as it appeared their property was zoned agricultural surrounded by farm fields on three (3) sides. The effect was miraculous. Her dad immediately connected with the chickens. He would watch them from the kitchen table instead of watching tv and when he became discouraged, seeing the chickens would cause him to light up and give a narration of what funny things they were doing. The chickens were allowed to free range staying often in view of his spot at the kitchen window between the coop and the out buildings. Eventually, they found their way into the yard of their neighbor to the south. The neighbor called her parents and asked if the grandsons could come get the chickens. From her memory, she called only a handful of times through the spring and summer for them to retrieve the chickens which they did. The exception was one (1) time when they were not there and her dad had accidentally let the chickens out of the coop while trying to show them to a friend. He, of course, was unable to retrieve them. As much as they were able, they would watch and keep the chickens from going into her yard even blocking their typical paths into her yard. The spring was such a busy time of adjustment with her parents though that the details of setting up an actual fence did not materialize. For a long time, the neighbor did not call and they assumed that the chickens were not an issue for her at that point partly because they did not see them getting near her house. In the fall, they were surprised to hear from her again. They were more surprised to receive a letter from the Zoning Department a month later. The October 16<sup>th</sup> zoning letter claimed that the chickens were not being cared for on a daily basis. That was an untrue claim as they had neighbors coming mornings and evenings if they were unable to be there. They now better understand the neighbors concern about having the chickens come in her yard and sorry they could not have resolved the problem for her earlier. They truly did not know the zoning restrictions. The night her parents got the letter from Zoning, her dad was distraught and became disoriented and started to stumble. For months since he has been anxious about the situation and not sleeping well some nights. It has been difficult for him thinking of being reported to zoning by a neighbor and of possibly losing the chickens. Upon getting the letter from zoning and realizing the gravity of the situation, her oldest son set up a basic fence which keeps the chickens near the coop and out buildings. As a result, the neighbors had no further complaints of chickens in her yard. They enjoy having the chickens and want to file for a Special Exception variance to raise up to twenty-five (25) chickens on the property. They appreciate their consideration and will be glad if they may at least keep the twelve (12) chickens they have. Thank you.

Melissa Mullins Mischke asked who lives on the property right now. Is someone there with her mom and dad?

Linda Chipman stated they are living there basically. Her oldest son has been holding it up for her when she has been going back to Illinois lately. They just recently went back.

Melissa Mullins Mischke asked who will be there after? They want more chickens, but it seems to her that it's obvious that her parents cannot care for the chickens by themselves. Is it a long-term plan to have someone living there as a caregiver?

Linda Chipman stated yes.

Melissa Mullins Mischke asked all the time?

Linda Chipman stated yes. In fact, her son maybe comes home for a day or two (2) and if he does then the neighbor is there to check on the chickens and to keep them under control. Of course, when they did leave they would put them in the coop.

Melissa Mullins Mischke stated that isn't ideal either if they are going to be gone for multiple days.

Linda Chipman stated she knows. They are working on getting a better fence. Right now, the fence that they put up was temporary to hold them so the neighbor wasn't getting upset so they just need time to get it together. It's a basic thing right now.

Melissa Mullins Mischke asked when she was first aware that the neighbor had issues with the chickens in her yard.

Linda Chipman stated she isn't sure. It might have been a couple weeks after the chickens were out and running around. When the neighbor did talk, she talked to her sons, and not directly to her so she never really knew what she was thinking or what she wanted, but she mentioned about them keeping them in the yard, but she didn't know until recently when her youngest son said that the neighbor had said something about getting a fence, but she did not talk to her and she didn't really know. When the neighbor called, they did go and monitor the chickens outside a lot and when they were gone, they were in the coop. Towards the end, they were not going in her yard so that's why they were out a little bit more.

**Remonstrators:**

Dawn Lenczewski stated her address is 9591 S. 400 W., Union Mills, IN. She knows the Burns family. They have gardens. Everybody lives in the country. They all kind of help each other. Her and her boyfriend grow vegetables and things and they take them down there. It is a close-knit community right there where they are. There are people for the most that are around. Her and her boyfriend go down there. The chickens in her opinion haven't really been a problem. If they were attacking or something she could understand that. They are also there almost all the time and she sees them there because she lives three (3) houses down. They pass through there

constantly. Since the incident happened with the Burns', her and her boyfriend as they go through, they do make things look okay in the home and there are other neighbors there as well. She knows the oldest son of Linda has been there at the house and he has been watching the chickens. They did get a coop. They purchased a coop and the chickens are confined at this time. For them to have to get rid of them at this point she doesn't think that would be good for the Burns. They brought such joy to Mr. Burns and it's another reason for him to keep going. She just can't see them losing their chickens.

Melissa Mullins Mischke stated thank you. Doug or Mike, what is the allowed number of chickens on this acreage.

Michael Polan stated it is so many chickens per acreage. Doug is looking in the book.

Melissa Mullins Mischke stated she never brings the book.

Vern Schafer stated while they are looking that up, did they always have a coop or were the chickens running free range.

Linda Chipman stated they always had a coop.

Vern Schafer asked if they have added a coop or if they are using the same one (1).

Linda Chipman stated they have a coop and the chickens are in there right now because it's cold. It's not a very small coop. It's not the tiny ones like at Rural King. It's a walk in and it is big enough for twelve (12) chickens. It's okay. There's a chicken tractor attached to it at the time that her son built and it is big enough to let them outside and run around.

Vern Schafer asked if they are layers or fryers.

Linda Chipman stated they are layers.

Vern Schafer asked who is collecting eggs.

Linda Chipman stated her sons.

Vern Schafer asked if they would take some of the eggs to her neighbor.

Linda Chipman stated yes, she knows and they would and she spoke to the neighbor before and she was friendly, but she didn't communicate with them which was the problem. She didn't tell them what she expected. They would have done more if they knew she was so upset. It was just a miscommunication.

Melissa Mullins Mischke stated chickens are messy.

Linda Chipman stated they are.

Vern Schafer stated yes.

Attorney Biege stated nine-point-eight-five (9.85) chickens. The point-eight-five (.85) maybe somebody took the wings, he doesn't know.

*Per JZO regulations, Ag is permitted to have fifty (50) chickens per acre on a minimum of three (3) acres. Less than three (3) acres requires a Special Exception.*

Melissa Mullins Mischke asked if they could go ten (10).

Vern Schafer stated they could round it up to ten (10) right.

Attorney Biege stated yes.

Linda Chipman stated so twelve (12) is out.

Vern Schafer stated so ten (10) is the maximum amount of chickens that the ordinance allows.

Attorney Biege stated yes because the lot is in Ag, so it requires a Special Exception, but the lot size is one-point-nine-seven (1.97) so it is just under two (2) acres.

Linda Chipman stated she thinks it said point-zero-two (.02) acres per chicken. Was that right?

Attorney Biege stated yes, that's what he just did on the math. He will run it again.

Vern Schafer asked if he has decided on what the rule is.

Attorney stated the chart says point-zero-two (.02), but there's no way that it doesn't come out to nine-point-eight-five (9.85) chickens.

Melissa Mullins Mischke asked where the coop is located on the property.

Linda Chipman stated the coop is between the shed and behind the garage so it is in their view. The neighbor doesn't even see it. In fact, she didn't know they had them in it fenced, she just thought they got rid of them.

Melissa Mullins Mischke stated there is a tractor attached to it so they can move it around the yard.

Linda Chipman stated yes. They could move it anywhere they wanted, but the coop is large and it would take a lot of effort, but the tractor can be moved. It's just big.

Melissa Mullins Mischke stated she is confused; she has chickens. Her coop area is attached to her tractor and they move it. They don't have to transport back and forth. She can't keep an eye on her chickens all the time and thank God she has an eight-foot (8') fence so her neighbors



don't have to deal with that. To get from their big, large enough for twelve (12) chickens coop, into the tractor, what is that process like?

Linda Chipman stated it is connected to the door so they enter the tractor from the coop so if they needed to, they could move it, but at the time it is nice and it is a settled place where her dad can see it and that's why they have it where they have it.

Melissa Mullins Mischke stated okay.

Linda Chipman stated the fence is separate from the tractor. The fence is large. It is between the buildings.

Melissa Mullins Mischke stated like a tunnel.

Linda Chipman stated yes.

Melissa Mullins Mischke asked how many roosters they have.

Linda Chipman stated they had two (2) roosters. One (1) was getting nasty so they got rid of him. The other one (1) was getting nasty and they got rid of him. Then they have two (2) bantams which she knows is totally against the law so they found a way to kind of have them; a neighbor can help them to have them. She would hate to get rid of the whole crew and that's why she didn't do it yet because she needed to make sure what the Board would decide. The two (2) bantams are her dad's favorites.

Melissa Mullins Mischke stated thank you.

Vern Schafer made a motion to approve the Petition for Variance of Special Exception for Roger and Nancy Burns for keeping a max of ten (10) chickens. Chickens must be kept in a fence and coop and not be allowed to free range in the neighborhood. This property is located at 9171 S. 400 W., Union Mills, IN., Noble Twp., zoned A on 1.97 acres.

Deb Vance seconded.

All Approved. Motion carries 4-0.

**5. Petition for Variance of Special Exception for East Indiana LLC** for operation of a truck rental business. This property is located at 4944 W. Hwy 20, LaPorte, IN., Springfield Twp., zoned B2 on 1.741 acres. Parcel 46-06-05-151-006.000-062.

Attorney Biege stated notice is adequate.

Dan Granquist stated he is the attorney for East Indiana LLC. His address is 1070 S. Calumet Rd., Chesterton, IN.

Melissa Mullins Mischke asked what the plan is for this property.

Dan Granquist stated this property is zoned B2. It is along Highway 20 east of the 20/94 interchange there. Where there is the Speedway, go a little further east and it is on the south side roughly across the highway from the Wildwood and the flea market that is there. Right now, it is mostly vacant. There is the house in the back. With all the properties along the way there, it is all zoned B2. One (1) of the permitted uses is an auto rental so this is a Special Exception that they are asking for, for the truck rental. It would be a Budget type of truck rental there which is very convenient for the highway access and the community there in that area.

Melissa Mullins Mischke asked how easily will they be able to access the westbound lane. Is there a center area there?

Dan Granquist stated not right there. There is a little bit further east by the Renaissance Academy and so forth there.

Attorney Biege asked if there is driveway access there now or will they have to get a permit from INDOT.

Dan Granquist stated he believes there is a driveway into a house that sits back in there right now. There has been something there, but it is not well used.

Attorney Biege stated for the Board's edification, it will be likely they will have to get a permit from INDOT for a commercial driveway so any of those concerns will be addressed by INDOT.

Melissa Mullins Mischke stated thank you.

Dan Granquist stated that is all during the site development later on. Right now, they just want the approval for the Special Exception for truck rental which was already permitted for auto rentals.

Vern Schafer asked if the house is occupied at this time.

Melissa Mullins Mischke stated they will get to the gentleman in the audience during remonstrators.

Dan Granquist stated he is the owner of the company.

Melissa Mullins Mischke stated not the owner of the house next door.

Dan Granquist stated no, but he owns the property.

Vern Schafer stated there is a house on the property.

Kalid Adab stated his address is 14 Yorkshire Woods, Oak Brook, IL. There is a building on the property that has been used commercially before as an aquarium. There is a driveway to the property that was used before. It was all gravel so that's what is on the property.

Vern Schafer stated it's not a house, it's just a building on the property.

Kalid Adab stated it was an empty vacant place. It wasn't sectioned as a house or anything. It was a building that had been used before as a business before. It was an aquarium or selling aquarium related business.

Melissa Mullins Mischke stated okay.

**Remonstrators:**

Eddie Boone stated his address is 2106 Chandana Trl., Valparaiso, IN. He is there on behalf of his mother-in-law, Lynn Wiederhold, whose house is adjacent to this property they say is mostly vacant. That property in question is a residential house that he thinks somebody may have rented. He remembers people living in it not too long ago. One (1) of his concerns with this was the driveway. It is hard to get across those lanes right there. He has a very difficult time going to visit his mother-in-law and he has seen many, many terrible accidents there. He also worries about when a business is put in there and the site prep. He is not a civil engineer. He is an engineer actually, but not a civil engineer. He does not know the topography of that, but he does worry with the site prep the water runoff effecting his mother-in-law's well, septic, foundation on her house, noise, and all those things. He knows this is zoned commercial and he knows growth is something everybody wants he just wants it done right. What all will the variance entail and how will it affect her, but that is a house there. They are the house right next to it. She is at 4844 and this is at 4944. Yes, it is a house. The driveway will need work and the site prep will need work. He just doesn't know how it will affect her septic field. What all from the trucks like oil and fuel; what if that ruins her well. That is the stuff he is here for. He just doesn't know about the variance.

Melissa Mullins Mischke stated sure. That would fall under a construction permit for MS4 if it were approved. If they are regrading or anything?

Michael Polan stated if the area of disturbance is equal to or greater than one (1) acre.

Melissa Mullins Mischke stated at that point, there would be a review with the County to say where drainage is going and things of that nature. So, as they said already, the INDOT will probably have to issue a permit for US 20. She agrees this is not a great area and there are a lot of accidents in that area, but if that can put some of his concerns to rest, they will hear what they want to do with the property.

Eddie Boone stated right. He just wanted to know what all is going on when it comes to the variance. Thank you.

Dan Granquist stated this is zoned B2. It is business area there. It is certainly intended for businesses to be developed so it would be a good use to the property there. The building there years ago may have been a house, but it's been vacant quite some time. It has been commercial. As Mr. Adab said it was selling aquariums and things like that. Auto rental is permitted use in

the B2 right there. This is just some trucks. Obviously, during the development phase, they will be working with all the building permits, the site development, INDOT, and so forth along the way. This is just a request for the Exception for the truck rental. Thank you very much.

Melissa Mullins Mischke stated she sees that there has been some communication between Budget Truck Rental and someone. Have they had experience before running a Budget Rental area.

Kalid Adab stated not really. Usually, he has experience through family who has run the business. Usually there is a max of fifteen to twenty (15 – 20) trucks. Most of the trucks are rented especially between August to January. On the property, they would probably have one (1) or two (2) trucks left. He will mainly rent them for long-term commercials. They will not do any repairs or oil changes like that; they will be taken to the main location in Edison, Illinois to do all the maintenance and repairs. Besides that, he will just have them on site. People will come over and pick them up and bring them over to the location.

Melissa Mullins Mischke asked how much traffic he anticipates.

Kalid Adab stated not much because they will only carry between fifteen to twenty (15 – 20) trucks so probably five to six (5 – 6) in and out a day. Most of them are rented for long-term movers for long-term businesses for commercial account businesses.

Melissa Mullins Mischke asked what kind of hours of operation are they looking at.

Kalid Adab stated he is looking to do nine to five (9 a.m. – 5 p.m.) or nine to four (9 a.m. – 4 p.m.) Monday through Friday.

Melissa Mullins Mischke stated no weekend hours.

Kalid Adab stated no weekend hours.

Melissa Mullins Mischke asked if there would be a sign.

Kalid Adab stated yes.

Melissa Mullins Mischke asked how large.

Kalid Adab stated they haven't decided the size, but they will follow the rules that they have listed in the JZO. They will follow exactly those. He reviewed all the rules in the book.

Melissa Mullins Mischke asked if he wanted to do Saturday by appointment.

Kalid Adab stated they haven't decided yet. It is up to the main company.

Melissa Mullins Mischke stated this is the time to decide.

Kalid Adab stated they would like to. Maybe Saturday eight to twelve (8 a.m. – 12 p.m.).

Melissa Mullins Mischke stated no Sunday.

Kalid Adab stated no Sunday's.

Vern Schafer made a motion to approve the Petition for Variance of Special Exception for East Indiana LLC for operation of a truck rental business. Hours of operation are 9 a.m. – 5 p.m. Monday – Friday, Saturday 8 a.m. – 12 p.m. Fencing must be installed on all sides. This property is located at 4944 W. Hwy 20, LaPorte, IN., Springfield Twp., zoned B2 on 1.741 acres.

Ernie Schmidt seconded.

All Approved. Motion carries 4-0.

**6. Petition for Variance of Developmental Standards for Ralph & Pamela Harmon (owner) and Shaun Harmon (buyer) to split a parcel in two (2). Parent Parcel will retain all road frontage and 8.7 acres. New parcel will be 2 acres with easement access and for construction on a parcel without road frontage. This property is located at 337 N. Fail Rd, LaPorte, IN., Kankakee Twp., zoned R1B on 10.7 acres. Parcel 46-07-32-100-080.000-052.**

Attorney Biege stated notice is adequate.

Shaun Harmon stated his address is 906 W. 22<sup>nd</sup> St., LaPorte, IN.

Melissa Mullins Mischke stated mom and dad are going to chunk off some land for him.

Shaun Harmon stated yes. They are getting two (2) acres and they will share a driveway going back to access their property.

Melissa Mullins Mischke asked if he knows the footage along the road.

Shaun Harmon asked how much property they have along the road.

Melissa Mullins Mischke asked how much road frontage is actually there.

Shaun Harmon stated about four hundred feet (400').

Melissa Mullins Mischke stated four hundred (400).

Vern Schafer stated that is with the two (2) lots right.

Shaun Harmon stated yes, with the two (2) lots right there which they own as well.

Melissa Mullins Mischke asked for remonstrators. If they are for it, they can still speak.

Ralph Harmon stated he is his father.

No remonstrators present.

Vern Schafer asked if he has given any thought to the future.

Ralph Harmon stated yes.

Vern Schafer stated when he is gone and somebody decides to sell this property.

Ralph Harmon stated his address is 0335 N. Fail Rd., LaPorte, IN. They do a driveway maintenance agreement and there are variances now with NIPSCO for gas running back to the property and electric. They have been there for twenty-four (24) years.

Vern Schafer stated he noticed that he has two (2) parcels in front that he basically has sectioned off for that particular purpose maybe in the future.

Ralph Harmon stated they have been sectioned off for over twenty (20) years.

Vern Schafer stated they are separate tax parcels.

Ralph Harmon stated yes. He also owns property on the other side of the driveway too.

Vern Schafer stated yes, he saw that too.

Ralph Harmon stated he has twenty-seven (27) acres total there.

Melissa Mullins Mischke asked if it is Shaun's intent to farm.

Shaun Harmon stated no.

Melissa Mullins Mischke stated she thinks that's what Vern is getting at.

Ralph Harmon stated it is still going to be farmed. He has hay in there now. He rents the property to a farmer that puts hay in.

Vern Schafer stated it looks like he has detailed plans for perhaps septic or he was showing on the map. If he could please approach. The drawing shows the property with the driveway going to his house and the other area marked would be septic area.

Shaun Harmon stated yes.

Vern Schafer stated the driveway would be shared with his folks.

Shaun Harmon stated yes. It's long driveway.

Attorney Biege stated if he is understanding this correctly, he created four (4) lots on a county road, right? Twenty (20) years ago or whenever it was.

Ralph Harmon stated those lots were created before he purchased the property.

Attorney Biege stated so he just bought the property that was shaped like a flag.

Ralph Harmon stated yea. He can look.

Attorney Biege asked if he parceled off the other lots.

Ralph Harmon stated no. They were parceled off by his mother and his step-father.

Attorney Biege stated so he owns the flag lot, correct.

Ralph Harmon stated yes, but he owns the parcels to the north as well.

Attorney Biege asked if he bought them subsequently.

Ralph Harmon stated yes. He owns all of that.

Attorney Biege asked if there are houses on the two (2) lots.

Ralph Harmon stated no.

Attorney Biege asked if the Board is clear on that.

Vern Schafer stated yes. He looked on Google and all that property is titled to Mr. Harmon even though they are separate tax lots.

Attorney Biege stated right. This is not a situation that is unique to this parcel because there are other parcels owned by the Petitioner.

Vern Schafer stated exactly.

Melissa Mullins Mischke stated right and this was a created situation.

Attorney Biege stated he wants to make sure the Board sees that.

Melissa Mullins Mischke stated one (1) of her concerns too, and what Vern may be trying to allude to it, is what happens when Ralph is no longer with them and someone else is going to farm. His house is going to be plunked right in the middle of all this Ag land.

Shaun Harmon stated the property all around it will still be farmed.

Melissa Mullins Mischke stated until the end of time. They don't know what is going to happen. He said it is not his intention to farm.

Shaun Harmon stated correct.

Melissa Mullins Mischke stated she doesn't want to get into wills and trusts and whatever is going to go on. Is she making Vern's point?

Vern Schafer stated they are left with some strange shaped lots.

Melissa Mullins Mischke stated extremely.

Vern Schafer stated they might not be able to be developed in the future. It looks like where Ralph lives in the back of the property is another house to the east.

Ralph Harmon stated it belongs to his step-dad.

Vern Schafer stated that's his step-dad so that's more family. It does look very well maintained.

Melissa Mullins Mischke stated she agrees.

Ralph Harmon stated it is. When they purchased the property twenty (20) years ago that was a question they had; would they be able to put another home there and at that time they were told that they would be able to do one (1) more, that they could have three (3) houses back there.

Vern Schafer stated he supposes the variance is because there is no real road access.

Ralph Harmon stated that is what the variance is for is for them to have access to the driveway.

Vern Schafer stated he would suggest that besides, since it is family using the same driveway and they have a maintenance agreement, that they get some type of legal easement.

Ralph Harmon stated they are already working on that.

Vern Schafer stated that way the property is accessible later if he ever decides to leave.

Ralph Harmon stated that is the property now. There should be an assessment in there now for the two (2) properties that are back there because they did that twenty-three (23) years ago.

Melissa Mullins Mischke asked if he has that easement information with him.

Ralph Harmon stated he does not have it with him; no.

Attorney Biege stated to keep in mind that no matter what the BZA does, the County is not going to create a landlocked lot. They won't let you do it.



Melissa Mullins Mischke stated that is kind of her thoughts. She is not in favor of this split because it is going to create a landlocked parcel. If it was something that was existing already, then that is a different situation, but this is something that they are creating and they don't allow buildable lots on landlocked property.

Attorney Biege stated it has been the BZA's policy not to create additional flag lots, number one (#1). Number two (#2), if there is another way to configure it, the BZA has preferred that method. There is another way to configure this.

Ralph Harmon stated if he was to give them more property that would give them road frontage to their home then. . .

Melissa Mullins Mischke stated that would be desirable.

Attorney Biege stated yes. The point is that the County over the years, we have old stuff all over the place, but what they don't want to do is create additional common driveways. It is a hotbed for litigation after his family over the years by attrition sells, it very often turns into a problem with subsequent land owners. He has been doing this for twenty (20) years. He is just telling the Board what previous BZA has done.

Ralph Harmon stated they shared a driveway with his parents for twenty (20) years.

Attorney Biege stated it was okay twenty (20) years ago. They are trying to evolve past that because there have been so many problems with shared driveways.

Shaun Harmon asked what if there is an easement all the way back.

Attorney Biege stated he is going to have to have an easement or he isn't building anything. The point is that they are trying to get away from shared driveways for fire protection and issues.

Melissa Mullins Mischke stated for emergency response.

Attorney Biege stated that is why they have subdivisions and those roads are turned over to the County and there is nothing for anybody to argue about. He is just trying to explain the reasoning there. Yes, it was probably okay when he did it, but it kept going and going and going and there have been ongoing problems with this type of configuration that he is asking for and there is another way to do it. Anyway, it is up to the Board though.

Vern Schafer stated he is suggesting there is another way to do this.

Attorney Biege stated he owns two (2) other lots there with frontage.

Vern Schafer stated yes.

Deb Vance stated there are two (2) others with two (2) acres.

Attorney Biege stated right.

Deb Vance stated why couldn't they use one (1) of those.

Attorney Biege stated his experience has been when the BZA has granted exceptions it is when nothing else can be done with the lot. There are all sorts of other things they can do with these lots.

Ralph Harmon stated they have a pond back there and it is more of a desirable place to build than next to the road.

Vern Schafer stated he understands that. If there was a street accessing those lots to the pond that he could deed back to the Township or County, whatever, it would be better for all involved than the sharing of a driveway for four (4) houses. With the current laws and the way he is understanding it, but he doesn't know how they would go about that.

Attorney Biege stated that first of all, if they are going to build four (4) houses, and he knows they aren't asking for four (4), but they would get a minor subdivision and the roads installed pursuant to County specs. This is in and around that, but by attrition a very slow one (1) around that, but that is why they have subdivisions. That way, they won't need two hundred feet (200') of road frontage for a subdivision. But in having a subdivision, they are making sure they have proper roads to get there.

Vern Schafer asked if they would plat a subdivision and not finish it, just do what they are doing, but have a platted subdivision for the future, even if it never happens, is that doable.

Attorney Biege stated yes because then they have to put a road in.

Ralph Harmon stated then it gets expensive because you have to do curbs.

Attorney Biege stated that is not the only way to do it. He owns the two (2) fronts of two (2) lots. Maybe he gives up a lot to conform to the County requirements, but he already owns frontage. This isn't the only frontage he owns.

Ralph Harmon stated correct. That was his question. If he deeded him the lot in front of where he wants to build the house.

Attorney Biege stated yes. If he has enough road frontage then. He will probably have to re-survey and re-draw it, but he won't even need a variance for that.

Ralph Harmon stated he has to do that anyway.

Attorney Biege stated yes, he won't need a variance.

Ralph Harmon stated he doesn't have a problem with that. Then he could get a building permit. Would he still have to do a driveway all the way back to his house or could he use his driveway.

Attorney Biege stated he thinks he still has to have his own driveway. That is the point of road frontage so everybody has a driveway and they are separated that way fire and emergency can identify the residence. If they did it that way, they don't need a variance at all.

Ralph Harmon stated right, but where he is wanting to put his house is seven hundred feet (700') off the road.

Vern Schafer asked if they could still share the driveway even if they didn't put one (1) in. If they have the access already.

Attorney Biege stated if that is something they want to let them do, but he has been looking at the Board for fifteen (15) years saying, "We don't want that."

Ralph Harmon stated that is basically why they are here. They want to share the driveway.

Vern Schafer stated to satisfy the County's regulation, if the front lot belonged to him and he went ahead and shared the driveway anyway then it probably would work anyway, in his eyes, but they wouldn't need a variance.

Melissa Mullins Mischke stated so everybody is clear on this, she is in favor if tabling this so they can go back and reconfigure. They are not in the business of giving advice on how to do things. That is not what they are here for. She would be in favor of tabling this until next month or until whenever they are able to come up with a plan whether that is speaking with an attorney or a surveyor or the Building Department, but they are not going to solve it right here. If she has to hear a motion on this, she is going to say no further subdivision and they are not going to be happy.

Ernie Schmidt made a motion to table the Petition for Variance of Developmental Standards for Ralph & Pamela Harmon (owner) and Shaun Harmon (buyer) to split a parcel in two (2). Parent Parcel will retain all road frontage and 8.7 acres. New parcel will be 2 acres with easement access and for construction on a parcel without road frontage. This property is located at 337 N. Fail Rd, LaPorte, IN., Kankakee Twp., zoned R1B on 10.7 acres.

Vern Schafer seconded.

All Approved. Motion carries 4-0.

Melissa Mullins Mischke stated they are going to table them. They are going to get in touch with the Building Commission when they are ready to come back in front of them.

Ralph Harmon stated okay.

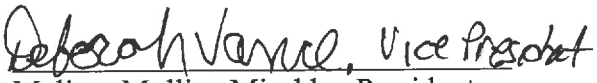
Melissa Mullins Mischke stated if the decision works out that they don't come back in front of the Board then there you go.

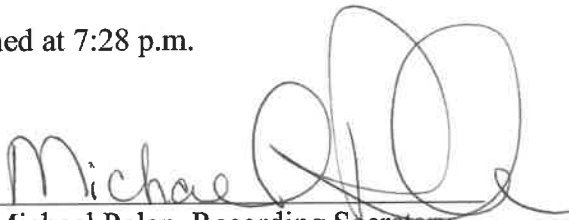
Melissa Mullins Mischke asked for any old business.

Melissa Mullins Mischke asked for any new business.

Melissa Mullins Mischke stated next month they will have their last appointment to the Board and then they will do elections at that meeting.

There being no further business, meeting adjourned at 7:28 p.m.

  
Melissa Mullins Mischke, President

  
Michael Polan, Recording Secretary