



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex, 5th Level
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Michael Polan
Building Commissioner

July 21, 2026

Dear Members:

The regular meeting of LaPorte County Board of Zoning was held Tuesday, **July 21st, 2026 at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mischke Anthony Oss
 Ernie Schmidt Eric Pointon
 Jeff Baltes Jim Lefeber

PRESENT: Michael Polan, Recording Secretary, Attorney Andrew Voeltz,
 Janet Cole, Administrative Specialist.

The Pledge of Allegiance.

Melissa Mischke: I will entertain a motion for the approval of the May 12th, May 19th, and June 16th meeting minutes.

Eric Pointon: I make a motion to approve the minutes as presented.

Jeff Baltes: Second.

Melissa Mischke: I have a motion and a second to approve the meeting minutes as presented. All those in favor say aye. Those opposed, same sign.

Approved 5 – 0.

Thank you, Janet. That was a yeoman's effort on getting all of those meeting minutes done.

Okay, so I just want to remind everybody tonight that there are still seats up front, if you'd like to have a seat, and to silence your cell phones.

We're going to have a roll call and then we're going to see where we go with petitions.

So public remonstrance is the public comment. If you are in favor or against a petition, which is your only time to speak. We do not have public comment where you can just come up and speak. So keep your comments to petitions either in favor or against, and you're going to have 3 minutes. So if you come up for remonstrance and there's a lot of you, maybe you try to condense all of your thoughts and have a spokesperson.

So with that, we will start with petition number one.

- 1. Petition for Special Exception for Yellowstone Solar Project, LLC represented by Counsel Christopher L Willoughby** for construction and operation of a commercial, large-scale ground-mounted solar energy system (SES). This property is located on or near the West side of S SR 104 with portions of three (3) parcels situated along the East side of S SR 104, North and South of E 750 S and along the railway to the East and between S SR 104 to the East, E Kankakee Road to the South, and S 775 E to the East, with two (2) additional parcels situated on the South side of E Kankakee Road approximately half way between S 775 E to the West and S SR 104 to the East in Johnson Township, LaPorte County, Indiana. Zoned Agriculture and approximately 626.85 acres. Parcel 46-16-08-400-006.000-051, Parcel 46-16-09-300-001.000-051, Parcel 46-16-09-300-002.000-051, Parcel 46-16-16-100-001.000-051, Parcel 46-16-16-100-002.000-051, Parcel 46-16-04-300-004.000-051, Parcel 46-16-09-100-002.000-051, Parcel 46-16-09-200-001.000-051, Parcel 46-16-09-300-003.000-051, and Parcel 46-16-09-400-002.000-051. **Tabled from June 16th, 2026.**

Melissa Mischke: This was tabled from the June 16th meeting. I will need a motion to remove this petition from the table.

Attorney Andrew Voeltz: Point of order, just for clarification purposes. An appointed member of the BZA from the LaPorte County Board of Commissioners was Jeff Baltes, and he made the decision to recuse himself. So Mr. Baltes has recused himself once again from this petition. The alternate, as appointed by the LaPorte County Board of Commissioners, is Jim Lefeber, and he has taken his place for this petition only. Just to make the record clear.

Melissa Mischke: So I still need a motion to remove it from the table.

Ernie Schmidt: I make a motion to remove it.

Melissa Mischke: I have a motion, do I have a second?

Jim Lefeber: I second.

Melissa Mischke: Thank you. All those in favor of removing the petition from the table, say aye. All those opposed, same sign.

Motion to remove from table passes 5 – 0

Melissa Mischke: So as we left it last, we were reviewing information. You guys had provided us with copious amounts of paperwork during the last meeting, we heard public remonstrance, and basically tabled the issue because we needed to absorb some more information. So with that, I will open questions from the Board of Zoning Appeals. Questions, Jim.

Jim Lefeber: Yeah, I got a ton of them. I've done some research. I see in the ordinance that there's an environmental impact and study. Did we have that in the binder? Because I really didn't see that in the binder. I've seen it was in the ordinance, but I didn't see it in the binder itself.

Melissa Mischke: And if you would, please state your name and address for the record, please.

Nick Barbinecht: I'm Nick Barbknecht. I'm vice president of Hoosier Solar, Michigan City High School grad, and I'm at 1926 Ponson Bay Westfield, Indiana. Yes, we did. We've completed environmental impact statements, Army Corps, IDEM, DNR, all detailed in there, yes.

Jim Lefeber: Was there any mention of the osprey and the bald eagle out in that area?

Nick Barbknecht: I'd have to review the document in greater detail to give you a concrete answer on that. In the packet, you will see a threatened and endangered species study.

Jim Lefeber: Okay.

Attorney Chris Willoughby: Just to add to that, the study was also included with our original submission. For clarity, that binder that was submitted was a duplicate and a better version of our submission for our initial filing. I mean, when we originally filed, all the documents we submitted, we submitted back in March when we first made this petition.

Melissa Mischke: Did you state your name and address for the record?

Attorney Chris Willoughby: Christopher Willoughby, 126 East 5th Street, Michigan City, Indiana.

Melissa Mischke: Ernie, you got questions?

Ernie Schmidt: Not right now.

Melissa Mischke: Eric?

Eric Pointon: I know we talked in depth about the fire protection last time and there were a lot of questions from Ernie. All you had kept saying was, I believe, Hamlet Fire or something of that nature. I think we need to have LaPorte County fire departments involved in this, and training with our own departments. Obviously, if there's a huge grass fire or some kind of electrical fire or something, there's going to be a lot of mutual aid called. We don't want to just have them outside of our county department. I mean, what if there's a train and they can't even get there, they're already going to call for somebody else.

Nick Barbknecht: I definitely agree. As you know better than I do, we set up the fire protection for Johnson Township and that the primary servicer is Hamlet Fire Department. That being said, we've already trained with them and we will commit as a condition for you all today, that if approved, we will do that same training for every neighboring township that also provides mutual aid to Johnson Township, even though Hamlet is the primary servicer.

Attorney Chris Willoughby: If I could add, the ordinance provides that at some point in this process, and we talked at nauseam last time about how much process is left, but one of those things is having an emergency plan in place. It's anticipated that all of those things will come to fruition and be part of it. But because of how this process is elongated in some ways, we have to present what we're entitled and what our intentions are. So that is one thing that we wanted to make clear there are still agreements to be had and commitments to be made. Also wanted to point out, and I'm going to defer to Nick because I feel like it's related, and maybe we could have done a better job of presenting this portion of the oversight, and more specifically to Mr. Schmidt's question.

Nick Barbknecht: Yes, definitely. We're committed to 24-hour monitoring where the first instance will be quicker than a phone call from a neighbor from the project to fire so that there is instantaneous response. As I think we mentioned last time, we have native pollinator grasses underneath the panels that are shaded, which dries them out slower, but the native pollinating grasses are going to dry out a lot slower

and they're going to be more fire resistant. We can't prevent every fire, but that's why 24-7 monitoring instantaneously to local fire after training, as we've described, as a condition of our approval is paramount to this project.

Attorney Chris Willoughby: Just to add, that isn't new, just a better job of maybe presenting and answering your questions in terms of what the intention is and things that are already in place and contemplated as part of the project.

Ernie Schmidt: Thank you.

Tony Oss: Well, just to follow up on the previous question. So I found the document, the letter from the Department of Interior. It does mention bald and golden eagles. It talks about the fact that the bald eagle has been removed, but it does reference the fact that there may be nests in the area. There are requirements regarding any disturbance if we find something. If you have to move something, it's discouraged to move it. If you have to move it, you have to seek a permit. You guys commit that you would do that survey work, to see if anything's out there.

Melissa Mischke: Right. So that would be out of the purview of our decision making tonight.

Jim Lefeber: In case of the fire, is there like an emergency shutoff switch to kill all the panels at once? Or how is that actually going to work? For example, if they're fighting a fire, will the fire just keeps going because the panels are still energized the whole time.

Nick Barbknecht: So part of that training is ensuring that all local fire departments and emergency services have complete access to the facility, have their own keys. We don't need them waiting around for someone else to give them access. They will know where the shutoffs are located.

Jim Lefeber: Okay.

Mike Polan: Madam President, I would just like to add that we found the environmental impact analysis and it's in the stack of documents. All of this information and the information that is referred to in the discussions tonight will be available in our office as public record for anyone to audit or request.

Melissa Mischke: Very good. Thank you.

Jim Lefeber: I've got one more. Is there a map available to see where the proposed high tension lines are going to come in at?

Nick Barbknecht: Yeah, so I think we covered this a little bit in the previous meeting, but we'll pull a map here together in a second. The map we shown at previous meeting shows that we're building right next to a NIPSCO owned line. So mostly, it will be buried. We haven't made the final decision on that, but it won't be any distance from the project to the line. It'll be right there. We picked this location because it was adjacent.

Jim Lefeber: You don't propose or you don't foresee any other high tension lines going in after that?

Nick Barbknecht: Correct.

Melissa Mischke: Sir, you might as well give us your name and address and speak into the microphone.

Jonathan Pike: Yeah, I'm Jonathan Pike, Vice President of Development at Hoosier Solar. I live in Chicago, Illinois, 1438 West Catalpa Avenue. Just to back up what Nick said, so the project interconnects to the existing NIPSCO substation, which is a high voltage substation. The benefit of doing that is no need for any additional overhead transmission lines, essentially. So, you know, the project itself, the solar panels, which cover about 300 acres of the 620 acre project, those are connected to each other by low voltage

Jim Lefeber: I read that.

Jonathan Pike: Correct, connected wiring, so no new overhead infrastructure.

Jim Lefeber: Okay.

Attorney Chris Willoughby: Which again, just to re-emphasize, is why this location and area were chosen.

Melissa Mischke: If we are ready, I will entertain a motion from the board.

Ernie Schmidt: I'll make a motion not to accept this project.

Eric Pointon: Second.

Melissa Mischke: So I have a motion to deny the petition and a second. All those in favor of denying the petition, say aye. Those opposed, same sign. Aye. So the motion carries. Petition is denied. Thank you very much.

Petition was denied 3 -2

- 2. Petition for Special Exception for Ruth Hugley (lessor) and Iron Mountain Towers LLC (Lessee)** for a new wireless communications facility. Four hundred and forty-five feet (445') tower and a four-foot (4') lightening rod instead of the maximum height of one hundred and ninety-nine feet (199'). This property is located at 344 W 1000 N, LaPorte, Indiana 46350, Springfield Township. Zoned Agriculture on thirty point two zero one (30.201) acres with a Parcel Number of 46-02-13-200-009.000-062.
Tabled from June 16th, 2026.

Melissa Mischke: If we can just give everybody a moment to get adjusted.

Eric Pointon: I'll make a motion to remove it from the table.

Jeff Baltes: Second

Melissa Mischke: I have a motion and a second to remove it from the table. All those in favor, say aye. Those opposed, same sign.

Petition removed from table 5 -0

Melissa Mischke: Okay, petition #2 this evening is much in the same situation as the previous petition, where we've heard information, we've heard remonstrance, and in fact, we continue to get remonstrance against this petition. So are there questions from the board? Do you have any other questions?

Tony Oss: Go ahead if you want to start.

Derek McGrew: I have a presentation, hopefully, for you to listen to.

Melissa Mischke: No, because we've already done the presentation.

Derek McGrew: Wasn't the point of me coming back here tonight?

Melissa Mischke: To hear us vote.

Derek McGrew: To respond to the remonstrance and provide documentation?

Melissa Mischke: You did that. I'm still getting emails from you guys. Today, the day of our meeting.

Derek McGrew: You didn't receive any emails from me today.

Melissa Mischke: Okay. Well, I'm not going to allow further presentations. So we're going to have questions from the board. And we'll go from there.

Derek McGrew: We did photo simulations. You don't even want to see that, what the tower is going to look like.

Melissa Mischke: We can go straight to a vote.

Derek McGrew: I would prefer you didn't. I brought experts with me to give you a verbal presentation about the documentation that we provided.

Melissa Mischke: We will not be listening to further presentations. That's a no.

Derek McGrew: Just as a reminder, we were not allowed to give the full presentation in May. We were the only applicant not allowed to give the presentation in May. As I sat here through all the other meetings, including the gas station, and now we're being told again we can't give our presentation or evidence. I have experts here to testify and your board is not allowing us to give evidence.

Attorney Andrew Voeltz: The board's decision is based upon the presentation that was previously made and you indicated that you would be supplementing that presentation with information. That was to be distributed to the board, which you've done up to and including yesterday afternoon. It says continue for another two months, whereas the board had been receiving information from you as the petitioner as a follow-up with this, which was allowed based upon your representation at the table. There was no indication made on the record that your presentation would be continued. It was that you were allowed to supplement the information that you had indicated you were going to be providing. You have done so. The board president runs this meeting. I don't run this meeting.

Melissa Mischke: Do you have any questions?

Derek McGrew: No, I'm going to give you the photo sims, and you could throw them away if you want. The other, I did not send any emails yesterday. No, ma'am. I guess we would ask respectfully that the photo sims be made for the record.

Melissa Mischke: You can provide those to the building commissioner's office. Tony, do you have any questions?

Tony Oss: Nope.

Derek McGrew: We had people come from Cleveland, the East Coast, and Wisconsin. On each page, there's a view from the mailbox of the property. I can't obviously get into there to take the pictures.

Melissa Mischke: Tony, do you have any questions? If there are no further questions from the board, I'll entertain a motion.

Attorney Andrew Voeltz: Madam President, if I may, as a point of order.

Melissa Mischke: Yes.

Attorney Andrew Voeltz: Specifically as related to the determinations that are indicated in the guidance that is provided by the Telecommunications Act of 1996, any decision that this board made needs to, that this board makes, needs to be supported by substantial information and discussion. So it cannot simply be a no. You have to provide the reasons for the no. It has to be descriptive in the reason why you are voting for or against this petition. Either one. It's not just simply for a denial. It is also for an approval of the special exception. And once again, the special exception criteria is outlined in Section 24-05 of the Joint Zoning Ordinance. That is not superseded by the Federal Telecommunications Act of 1996. It is designed to encourage detailed reasons or methodology, whereas the board is making their decision. It cannot just simply be a yay or a nay. You must provide the reasons why you are either voting for or against this petition.

Derek McGrew: Just for the record, nobody has provided any evidence except us.

Melissa Mischke: Okay, Tony, you have a question?

Tony Oss: Yeah, so there's been a lot of information provided in regards to the specific, I think is article 14 that outlines telecommunication towers and some of the variances that we can apply, some of the restrictions. Nowhere have I seen section 15-01c addressed, which states that we're not allowed to put a tower on any property that has a residence on it.

Melissa Mischke: And if you would please state your name and address for the record.

Rodney Carter: Sure. My name is Rodney Carter. I'm an attorney with Husch Blackwell, 511 North Broadway, Milwaukee, Wisconsin. Our position is that your ordinances specifically allow towers to be placed in the agricultural district. That the use regulations allow towers in this zoning district. They don't prohibit them. We specifically meet all of the use criteria under section 12 of the ordinance.

Tony Oss: But you do not meet 15-01 c.

Rodney Carter: We do meet 15-01 c.

Tony Oss: Have you read 15-01 c?

Rodney Carter: Yes.

Tony Oss: OK, hang on.

Attorney Andrew Voeltz: Madam President, for purposes of the record, Article 15 provides for Section 15-01 uses per lot, specifically as to Mr. Carter's identification of the subsection. Subsection C of Section 15-01 reads, wireless communication facilities may be located on a lot that contains another use comma, except one family and two-family dwellings.

Rodney Carter: So if I can respond to that, the ordinance's uses per lot provisions has to be read in context. Section 15-01 (a) expressly exempts agricultural uses from its one principal use rule. A dwelling on a 30 acre agricultural parcel in an agricultural district is a farm dwelling. This would be an accessory and subordinate use to the agricultural dwelling on that parcel. It's not a standalone residential use. It's my understanding or it's my assertion here that Indiana courts apply a three-part subordination test. That test is meant here. That's an active farm use on that property. Here the tower would be a subordinate use to that existing use of the property. It's completely appropriate.

Eric Pointon: This is still a one or two family dwelling, correct?

Rodney Carter: Yes.

Melissa Mischke: There is a one family dwelling on that parcel.

Eric Pointon: I know. So that's what I'm saying. He's saying because it's considered a farm dwelling, but it's still a dwelling, so it doesn't supersede just because it's a farm. Correct, Andrew?

Attorney Andrew Voeltz: The plain language of the JZO reads, except one family and two family dwellings. That's the way it reads.

Eric Pointon: It's pretty cut and dry, right?

Tony Oss: This is the challenge I see as I look at that section as requiring a developmental variance outside of the requirements of a special exception.

Developmental variances have different standards of approval. So in my perspective, that's what I'm asking you for. I look at that and say that is a separate part. I understand that there are provisions that allow for these towers and there's provisions that allow us to vary, at least we're given the opportunity to vary height and other things. There's also other restrictions within Article 14 that I wonder about. But that one in particular has never been addressed until this instant. I feel like now in this instant I'm getting a sort of a legal brief as to why I shouldn't listen to that and what Indiana courts say rather than having something in front of me. That is not new. That was a provision that was brought up during the first meeting during remonstrance. That was a specific point raised. I haven't seen anything until now. So that's where I'm curious.

Rodney Carter: I mean, my position is that that's an accessory. That the tower would be an accessory use to the existing farming operations that are out there.

Melissa Mischke: So a tower that's going to transmit financial information from one location to the other is not in conflict with a farming land use? Is that what you're basically telling us?

Rodney Carter: Yes.

Tony Oss: The tower is an accessory use.

Melissa Mischke: Okay.

Rodney Carter: It is an accessory use. It's not a primary use of the property. I don't think it's a stretch at all.

Derek McGrew: It actually would mean that property elimination report that I sent you means that there's no properties. The property elimination report that I provided you. And apologies if you just got an e-mail yesterday, but I didn't send any emails any later than Friday with, I think, just one attachment.

Eric Pointon: Well, it was Friday afternoon and yesterday was Monday, so.

Derek McGrew: Yes. I had just got them. The things that we just got take a lot of time. Believe me, we're pushing to make sure you got them.

Eric Pointon: They have a lot of things going as well. So if we just got it yesterday, I'm not.

Derek McGrew: I understand. I just didn't want you to think that I just, I know it was Friday or Thursday or whatever it was. My point is, the property elimination report shows that there were 48 properties that we looked at. If you're saying that this property, in your opinion, doesn't fit that means no properties fit. So that means I eliminated 48 out of 48.

Eric Pointon: With the residence on it, it doesn't fit.

Derek McGrew: Yeah, and what I'm saying is that certainly, even if you interpret it the way you are, it's certainly a hardship because there's no other property in our search ring or anywhere near our search ring that would meet your county requirements. Because if you're a two mile tower to tower setback, because of the size of the property that's required, because of the setbacks that are required, that's what that property elimination report was trying to show you, is that that was questioned to me is how many properties you look at? 48. That's a lot of properties to look at. Even if we extended the search ring out or search area out, there would be more. I didn't calculate how many more, probably twice as many that we could eliminate.

Jeff Baltes: But you got to realize you're asking for a 445 foot tower, which is very out of the realm.

Derek McGrew: There's one in Wanatah that's 500 feet that you approved. Well, you being La Porte County, and it was actually owned by one of your former BZA members Sullivan. There's a 400 footer near New Carlisle.

Tony Oss: Is there a house on that lot?

Derek McGrew: On the 500 footer, yes. On the 400 footer, I'm not sure.

Tony Oss: That would have been great information to know before right now.

Derek McGrew: Well, I'm sorry, I didn't. I mean, there were so many things that came up . . .

Tony Oss: Just hang on. It's a legitimate concern and I feel like I'm being treated a bit as if it isn't legitimate. So just, we're having a conversation.

Derek McGrew: Absolutely.

Tony Oss: Okay.

Eric Pointon: I didn't find it very quickly, but I know that this property line setback, you had it offset because there's a wetland, correct?

Derek McGrew: Correct.

Eric Pointon: That's also a huge concern of mine. I understand that these things are made to like break in half. So that's why you're at 200 feet. But what if it doesn't? I want to see it at least 445 feet from a property line.

Derek McGrew: Well, respectfully, that's what your setback requirement is for the county.

Eric Pointon: Our setback is also says that we only allow 199 foot tower. So if you're trying to go by what our setback is.

Attorney Andrew Voeltz: Madam President, point of order, gentlemen, one at a time, please. We need to keep the record clear.

Derek McGrew: So, I mean, that's one of the experts that's here. He was here to tell you about the collapsibility of the tower. He is here to verbalize the report that I provided you. Can I address that question? He can come up and talk about it.

Melissa Mischke: I feel like we have enough information to make a decision.

Rodney Carter: I do want to say that question on the tower. I think it is an accessory use for that. Property, it's certainly not a primary use.

Melissa Mischke: It's up to the rest of the board.

Tony Oss: But again, I think that's fine. I'll take that for what you say. That's fine to have your opinion in that way.

Melissa Mischke: Eric, would you like to hear from the tower guy?

Eric Pointon: No, I understand how it's made. The design we saw with these tornadoes, some of these, you know, they break at different places. I wouldn't want that thing 220 feet from my house.

Derek McGrew: I'll tell you what he told me as an example.

Melissa Mischke: I think we'll wrap it up. If there are no further questions. I will entertain a motion for this petition.

Jeff Baltes: I'll make a motion to deny the petition as presented.

Eric Pointon: And we have to state a reason?

Attorney Andrew Voeltz: Madam President, again, point of order. As indicated previous, there needs to be a reason, you cannot just simply state deny as presented. There must be some rationale behind your motion to either grant or deny. Either one.

Melissa Mischke: Jeff, do you want to amend your motion to include one way or the other?

Jeff Baltes: 100% reason on my part is the distance, 200 feet from a property line, and it's 445 feet tall. I get what Eric says, they are designed to collapse, but you can't guarantee it's going to collapse. You can't guarantee it's not going to fall across.

Melissa Mischke: We're in a motion. You just made a motion.

Jeff Baltes: But I had to give a reason why, correct?

Melissa Mischke: Thank you. But we don't have to explain. It's not a conversation at this point.

So I have a motion to deny with Jeff.

Eric Pointon: Second.

Melissa Mischke: Thank you. A motion and a second.

Tony Oss: Can we have some discussion, please? I would like to at least consider a revision to the motion. If you're willing to consider it to notwithstanding other issues that the project does not comply with Article 15-01, Section C. Yes, of the JZO.

Eric Pointon: I will still second that.

Melissa Mischke: You're good with that amendment?

Jeff Baltes: Yes.

Melissa Mischke: Okay, so I have a motion and a second to deny. All those in favor, say aye. All those opposed, same sign. Aye.

Motion to deny petition passes 4 – 1.

Melissa Mischke: Okay, so for everybody who's in the room that was here for those two petitions, if you are going to leave, do that now because the board has further business in front of them.

Eric Pointon: Andrew, I'd like to apologize for calling you Anthony. I was thinking about this guy. I don't know why. I just want to get that on the record. My full apology.

Attorney Andrew Voeltz: No comment.

3. Petition for Variance of Developmental Standards for Gregory Amor
to keep three (3) shipping containers for storage. This property is located at 2125 E 1000 N, LaPorte, Indiana in Galena Township. Zoned Agriculture on one point five zero (1.50) acres with a Parcel Number 46-03-09-300-020.000-048. **Tabled from June 16th, 2026.**

Melissa Mischke: This was tabled from our June meeting. So again, I'm going to need a motion to remove it from the table.

Tony Oss: Motion to remove from the table.

Jeff Baltes & Ernie Schmidt: Second.

Melissa Mischke: Tony made the motion and Eric and Jeff both seconded. So, all those in favor of removing it from the table, say "Aye." Those opposed, same sign.

Petition was removed from the table 5 – 0

Melissa Mischke: Okay. Mr. Amor. So again, we have heard your legal work, remonstrance, you decided you had some additional work you wanted to do before we made a decision. Are there any questions from the board from our previous meeting?

Ernie Schmidt: Did you contact the building department before you got the storage containers?

Gregory Amor: I don't have them yet.

Ernie Schmidt: Well, I was out to the job site and I saw one.

Gregory Amor: The one that's there, I did not know I needed a variance. It was brought to my attention after applying for an address on the property that I had to

do this. It was either remove that one or come to get the variance. If I was going to get some in the future, put them on the record.

Melissa Mischke: OK.

Ernie Schmidt: Thank you.

Gregory Amor: You're welcome.

Eric Pointon: Well, can you just give me a quick refresher? What was the purpose of these that you wanted?

Gregory Amor: The containers?

Eric Pointon: Yes.

Gregory Amor: So I have the sawmill there, and it's getting larger in scale, and I need somewhere to keep its storage.

Jeff Baltes: Is it going to be for storage for processed wood?

Gregory Amor: Correct, for the lumber that comes off of the mill, yes.

Ernie Schmidt: So, is this wood that you sell? Is this wood that you use for your own personal use?

Gregory Amor: It's both. It's a hobby.

Ernie Schmidt: Okay.

Gregory Amor: That is getting out of control.

Melissa Mischke: I was going to say that's a lot of wood for a hobby.

Gregory Amor: Yes, it is. It is. It started small in scale and it's grown. I have a hard time saying no. I have a lot of friends and family that I have logs showing up constantly and my list of things to mill is very long.

Ernie Schmidt: Could you make your own lumber to build you a shed?

Gregory Amor: I could, yes.

Ernie Schmidt: Thank you.

Melissa Mischke: Okay, so it appears we don't have any further questions, so I'm going to entertain a motion.

Ernie Schmidt: I'll make a motion not to allow the shipping containers.

Melissa Mischke: So I have a motion to deny the petition. Is there a second?

Tony Oss: Second.

Melissa Mischke: I have a motion and a second to deny shipping containers. All those in favor, say aye; those opposed, same sign.

Vote to deny petition failed 2 – 3

Melissa Mischke: Ok, so the motion to deny has failed. This has never happened to me 20 years. Way to go, Mr. Amor. Does that mean we're going to have to do the motion to approve?

Attorney Andrew Voeltz: Madam President, as a point of order once again, because the initial motion that was seconded failed, now there needs to be a second motion or a new motion made that is not the same as the previous motion.

Eric Pointon: I will make a motion to approve this petition.

Melissa Mischke: Okay, I have a motion to approve.

Jeff Baltes: Second.

Melissa Mischke: And a second. All those in favor, say aye; those opposed, same sign. Janet, would you do a roll call on this one, please?

Janet Cole: Tony Oss

Tony Oss: No

Janet Cole: Eric Pointon

Eric Pointon: Yes

Janet Cole: Melissa Mischke

Melissa Mischke: Yes

Janet Cole: Ernie Schmidt

Ernie Schmidt: No
Janet Cole: Jeff Baltes

Jeff Baltes: Yes

Motion to approve petition passes 3 – 2

Melissa Mischke: OK, congratulations. I want you to work with the building commissioner and their office for permitting and all the things that are required. I don't want to have complaints later.

Gregory Amor: OK thank you.

4. Petition for Variance of Developmental Standards for Luis Flores

remove point seven five (.75) acres from Classified Forest and build a home on less than the minimum one (1) acre. This property is located next door or East of 4303 E Scholl Road, Rolling Prairie, Indiana in Kankakee Township. Zoned Agriculture on ten point seven five (10.75) acres with a Parcel Number of 46-07-26-300-010.000-052.

Attorney Andrew Voeltz: Notice is adequate.

Melissa Mischke: Thank you. Would you state your name and address for the record?

Luis Flores: Luis Flores. My address is 6607 South Justine Street, Chicago, Illinois.

Melissa Mischke: You want to remove the one, 0.75 acres. What is your intent? Are you going to build something there?

Luis Flores: I want to build a home.

Melissa Mischke: Will you then reside at this home?

Luis Flores: Yes, ma'am. It will be a full-time residence.

Melissa Mischke: Do we have remonstrators this evening for this petition? Anybody in favor or against? If you would have a seat, we'll hear Commissioner Holifield.

Steve Holifield: Good evening. Steve Holifield, 6782 East 100 South. I've dealt with farms that have been put in a classified forest before. There's quite a process to take ground out of it once it's put in there. I also hope he's aware that he's going to be

living in the middle of a giant industrial solar project now. Thank you.

Melissa Mischke: Any other remonstrators in favor or against this petition? Any other remonstrators? Luis, would you like to come back up?

So as kind of alluded to, we're just the first part of this process, right? You still have to go through some more steps in order to remove it. You'll have to pay taxes on it. Those things are not under our control, nor do we make a decision based on those. So our decision is going to be based on what's in front of us in your petition. So do we have any questions as a board?

Tony Oss: Why not just take a full acre out?

Luis Flores: Because I actually want to keep that forest. I don't want to take everything out, I just need a little piece just so I can live.

Tony Oss: But if the land was, if the lot was still one acre, you don't have to take down everything.

Luis Flores: It's only 10.75. So if I go one acre, it'll be 9 point . . .

Melissa Mischke: You can't take out an acre it will be less than 10 then.

Tony Oss: Okay. So that's kind of what I'm asking is at that point, you can no longer have it as a classified forest.

Luis Flores: That's correct.

Tony Oss: Okay.

Melissa Mischke: Do you have anything? There are no further questions from the board and there are no remonstrators coming forward. I'll entertain a motion.

Eric Pointon: I'll make a motion to approve this petition.

Jeff Baltes: Second.

Melissa Mischke: I have a motion and a second. All those in favor say aye. Those opposed, same sign.

Motion to approve petition passed 5 - 0

5. Petition for Variance of Developmental Standards for IN-39 LLC for keeping of ten (10) storage containers for fireworks. This property is located at 10351 N St Rd 39, LaPorte, Indiana in Springfield Township. Zoned B3 on three point one seven zero three (3.1703) acres with a Parcel Number of 46-02-11-400-031.000-062.

Attorney Andrew Voeltz: Notice is adequate.

Melissa Mischke: Thank you. Would you state your name and address for the record, please?

Frank Porro: Sure. My name is Frank Porro. Address is 10 South 280 Glen Road in Lamont, Illinois.

Melissa Mischke: So Frank, is there a building that you can store these fireworks in?

Frank Porro: So we have a building on the property. I guess the easy way to put it is we are trying to expand business. We had been in talk with state fire marshal, because that was our first contact point about adding to the structure and whatnot and a very complicated process. His suggestion, and we actually have a new state fire marshal, this was our previous state fire marshal, the other gentleman, I believe this was about 18 months ago or so, was for storage containers. One of the main reasons specifically that he cited for storage containers is there's zero ignition points. Houses, buildings, electric, water, heating. This is standalone. It's self-contained. It's a much more confined environment. We're able to separate everything. If, God forbid, anything was to happen, it would be to that specific container and not spread from container to container. Matter of fact, the shipping containers that we use are also ATF approved.

Melissa Mischke: To be clear, they're already on the property.

Frank Porro: That is correct. I do have some pictures I would like to share with you. When I purchased the property a few years ago, I apologize, for whatever reason, Google stopped in 2018. There is no Google image down 39 from 2018 to date. So we purchased the property. The property was kind of blighted. We've done significant improvements to the property every year. The containers are not in their final stage. This was kind of an add on measure as we were going. You can see on the property, we've redone a significant portion of the parking lot. We've cleared up a lot of the brush and overgrowth in the area. We've had a new septic installed on the property. We've had the entire property repainted, new signage. We're kind of going at it at the best that we can. Obviously, we need to make money to do that as well.

So as things progress, we improve the property. I know there are other fireworks facilities that have these and do use them. One thing that I will use as a delineate between them and us is all of our containers are brand new. They are one trip containers. They came off the boat and that was it. They stayed with us. They all match. It is not a kaleidoscope of colors. My whole point being is I'm certainly not trying to detract from the neighborhood in any way, shape, or form. We are trying to add to it.

The two last pictures in there were kind of the final vision where there is a fence with some landscaping around it to further pull the eye away from the container. We definitely don't want it to be a focal point for anybody to concentrate on.

Melissa Mischke: Well, Frank, let's see if we have any remonstrators tonight. Is there anyone here for this petition or against? Mr. Cooley.

Jerry Cooley: Jerry Cooley, I live in 1777 West, 1000 North, LaPorte. I'm about probably 1/2 mile, maybe a little bit more from this building. I understand it's all commercial in there. The only thing I'm concerned about is I hope that the Springfield Township Fire Departments are trained. I think we'd have about 15 volunteers. You put 10 storage units with fireworks inside of it, and I would like to have them involved in part of this also. If anything, there should be, you know, dirt bunkers around them or something to protect the public. I believe the property is right next to the boat storage in the Michigan side, not on the Indiana side. Yes, I think that building back in the day is the pole barn that I'm still looking at there. The pole building, yeah. I know the company had built that years ago, didn't even have permit to build that. If you remember that, that building, that pole barn. I know that was before your time, and they had problems with that. I have no problem with the building, but these bunkers and there were 10 units, that's a lot of fireworks. I would definitely want the fire department to okay this before it's approved for the township. It creates a big hazard. Thank you.

Melissa Mischke: Any other remonstrators for or against this petition? What other questions do we have from the board? If you'd like to come back up, Frank.

Frank Porro: If I may, can I address one thing just to what the gentleman said? The containers are not full. We are not allowed to fill them front to back, side to side when they're for storage purposes.

Melissa Mischke: Thank goodness for that.

Frank Porro: Yes.

Melissa Mischke: Okay, so you said these are approved by ATF.

Frank Porro: Correct.

Eric Pointon: And recommended by the State Fire Marshal.

Frank Porro: Correct.

Eric Pointon: That's the best way to store fireworks from my understanding.

Frank Porro: Correct.

Melissa Mischke: To keep from spreading and being one big explosion.

Frank Porro: Yes. Correct. There is no ignition source inside of them because there's nothing there. So there's nothing to ignite it.

Eric Pointon: How many months of the year are there fireworks in these?

Frank Porro: It varies. This is kind of our first season with doing this. For argument's sake, I would say 9, but stock varies.

Eric Pointon: Pre-sale order.

Frank Porro: Correct.

Eric Pointon: Yes obviously there is off season pricing and whatnot, I understand.

Frank Porro: So we bring in for the holiday.

Eric Pointon: So how much is in the building? As far as fireworks go.

Melissa Mischke: Like a percentage?

Eric Pointon: Like, is the building full of fireworks as well, or are they all stored in these containers for safety purposes?

Frank Porro: The building has fireworks in it as well, and the amount obviously, varies as well. Our peak season for storage is probably end of May through June, and once we get closer to holiday, that stock goes down.

Melissa Mischke: What percentage would you say for how full the containers are? A rough idea?

Frank Porro: At max, they're 60%.

Melissa Mischke: Have you spoken with the local volunteer fire department?

Frank Porro: I have not.

Eric Pointon: Would you agree to have them come out there and maybe even have a training day or something?

Frank Porro: 100%. Yeah.

Eric Pointon: You'd have talk to the Building Commissioners office and make sure they're all secured the way they want them and all of that.

Frank Porro: Absolutely. Again, we want to work with everybody. We want to be a part of the community, not detract from it. So yes, whatever would be necessary.

Tony Oss: I appreciate the presentation because we've had similar conversations recently. Is there any documentation that the State Fire Marshal or the Department of Homeland Security can provide that gives you this guidance? Or was this like a verbal conversation? Is there a letter or some sort of documentation that you could provide that could at least substantiate that? I understand you're saying it, and I'm not saying I don't believe you.

Frank Porro: 100%. So it was a verbal conversation I had with the state fire marshal, but I would absolutely look into. So I was trying to look through some of the state guidelines, and there are some statutes to it, but I couldn't get the information that I was looking for to submit for this evening. I would absolutely get that and be more than happy to present it.

Melissa Mischke: Andrew, can we make a vote, and if that vote is in favor, be contingent upon the building commissioner's office receiving that information to his satisfaction?

Attorney Andrew Voeltz: Madam President, the Board of Zoning Appeals is granted the authority to impose conditions upon any variance that is granted. One of those conditions could most certainly be that the petitioner in this situation would need to provide the building commissioner's office with whatever information you require. Then it would be revisited in 30 days, for example. If the petitioner had not followed through with that specific condition, the board could make a vote then to revoke the petition or the granting of the petition.

Melissa Mischke: Thank you. I just wanted that to be clear for everybody on the board.

Tony Oss: Would those conditions sound reasonable to you?

Frank Porro: Yes, absolutely. I have no problem submitting that information. Well, I'll make a motion that we approve this pending the condition of you give you 60 days to contact the local fire department, set up some kind of a training, contact the fire marshal and try to get a letter of recommendation to use storage containers.

Melissa Mischke: But it's best practices for the and the ATF.

Eric Pointon: That it is an ATF approved container.

Frank Porro: Absolutely.

Melissa Mischke: Okay.

Eric Pointon: So you obviously have to work with them and secure them how they tell you to.

Frank Porro: Right. And where to place them and whatnot. Yeah, absolutely. We want to be in full compliance.

Jeff Baltes: I will second that.

Melissa Mischke: Okay, we have a motion and a second. All those in favor say aye. Aye. Those opposed, same sign.

Motion to pass this petition passes 4 -1

Melissa Mischke: Make sure you work with our building commissioner's office to get the information required. You do have 60 days. So that's going to be September 15th at 6 PM.

Frank Porro: So I will be required to come back for that meeting.

Melissa Mischke: Yes, I would like you to do that.

Frank Porro: Oh, absolutely. I just wanted to be clear.

Melissa Mischke: All right, good luck.

6. Petition for Variance of Developmental Standards for Land Trust

#4965 for two (2) shipping containers to be converted into a garage, with a footprint of 34' x 20' (thirty-four by twenty feet). This property is located at 0352 E Hwy 20, LaPorte, Indiana in Kankakee Township. Zones R1A on four pint two three (4.23) acres with a Parcel Number of 46-07-07-100-030.000-052.

Attorney Andrew Voeltz: Notice is adequate.

Melissa Mischke: Thank you. If you would state your name and address for the record.

Monalisa Kimmel: My name is Monalisa Kimmel. I am currently living at 1011 North Roeske Trail in Michigan City, and I am representing my husband in this petition. He has a mobility issue and a medical condition where he's not able to sit here long enough to sustain himself.

Melissa Mischke: Are the shipping containers already on the property?

Monalisa Kimmel: No, ma'am.

Melissa Mischke: Okay. The storage is going to go in front of the concrete pad that's there?

Monalisa Kimmel: Yes.

Melissa Mischke: So you are kind of on the north side.

Eric Pointon: Will you be building the garage out of the containers right away?

Monalisa Kimmel: Yes, sir. We're just using that as a foundation. When the project is finished, it's not really going to look like a shipping container, because they are going to be cosmetically covered up on the outside. Of course, we don't like an eyesore also. We like the place to be beautiful and that is our purpose on this, actually we're planning to live there. So we wanted to beautify the place before we move in. That's part of that because right now, we're living in a 4400 square feet house and the proposed house that we're moving into is only 1800 square feet. square feet. So we need that container to become our storage, preferably just for maybe furniture and clothing and other stuff, nothing liquid or anything.

Melissa Mischke: Let's see if we have any remonstrators tonight that are in favor of this petition or against it. Is there anyone in favor or against this petition? Would

you like to come forward, ma'am? If you'll have a seat, Monalisa will hear what she has to say.

Dolores Smeaton: Dolores Smeaton, 0440 East, US Highway 20. Our properties are right side by side. There's a lot of building going on up there. Have they made it into a garage, or can they change what they're planning on building into something else?

Melissa Mischke: Do you mean if they can reside inside of those containers as opposed to having it as storage?

Dolores Smeaton: Well, that's kind of what going kind of now. There's different things that they're living in right now, and there's some of the stuff up there that has been converted. So I don't know, but as a storage by itself, I have no problem with it. Do they have to stick basically to what it says or change it to something else?

Melissa Mischke: They would definitely need to stick to what their petition is. So if they're asking for storage in a garage, and if it were granted, then it would have to be storage in a garage.

Dolores Smeaton: Well, I have no problem if it's going to, if it has to be what the petition is, then I don't have a problem. Thank you.

Melissa Mischke: Thank you. Is there anybody else in favor or against this petition? Would you state your name and address for the record?

Mark Sherrick: My name is Mark Sherrick. I live right next door to Dolores Smeaton, and 2 doors down from them. I'm not against it. To put a storage unit on a property, you have to have a variance. I've known plenty of people that put them on property and said they'd never had to get a variance.

Melissa Mischke: It's the storage container aspect.

Mark Sherrick: Okay, because I'm planning on putting one on my property.

Melissa Mischke: Are you going to use a storage container?

Mark Sherrick: I'm going to use a storage container for storage.

Melissa Mischke: You probably want to come in front of the board then. If you want to get in touch with Mr. Polan's office.

Mark Sherrick: Okay, I will. In fact, it's just down the road from me. It's actually across the street from Eastside Produce, and I'll have plans to move it on to my

property. So I'll get with you and we'll see what we got to do to get everything approved. Okay, thank you.

Melissa Mischke: Thank you, Mark. Anybody else? For or against? Mona Lisa, if you'd like to come back up, we'll see what questions the board has.

Eric Pointon: I don't have a question. I have a comment.

Melissa Mischke: Okay, go ahead.

Eric Pointon: I've talked to the building commissioner and our attorney about this today. I've asked about this for the last couple of years now. I was told before that if you're going to build a garage like this, that you could use these as a building material. I don't believe it would have to come here tonight, if that's my understanding.

Monalisa Kimmel: Yeah, not at all, because I don't like the look of it. It's the wrong look. We want to put a face on it, maybe wood or something.

Eric Pointon: If you're building a garage or whatever out of these. You can do that without having to come to BZA, correct?

Mike Polan: I've heard that there is pending state legislature that would allow shipping containers to be used as building materials, not as a standalone accessory structure, but as building materials. I cannot specifically confirm that right now. Maybe our attorney can, I'm not sure.

Attorney Andrew Voeltz: Mr. Pointon, where we're at here is one of those situations where the board is seeking to remedy something on the local level and the state is trying to take it up in order to do it. So any decision that the board would make with regards to anything moving forward specifically referencing shipping containers as used for building materials may wind up being superseded by state statute. So this is the reason why these petitions continue to come before the board, even though by the letter of the law, if I was looking at this and I was seeing it that someone was applying for something like this and they define it as a building material, I don't see the reason why it's coming before the board, but it has been the long-standing practice of petitioners to approach the board anytime the phrase shipping container is used. Period. So if you say shipping container used as building materials, you've still got shipping container in there. So I think that's the best practice here at this point on a local level until the folks downstate make a determination moving forward.

Eric Pointon: Or if our local plan commission and our comprehensive plan changed things, get that on record real quick.

Tony Oss: Aren't you on that commission?

Jeff Baltes: Feel better now

Melissa Mischke: Does anybody else have questions?

Tony Oss: You are only asking to potentially use these storage containers as a component of a building that is 20 by 34.

Monalisa Kimmel: Yes, sir. If you guys were not going to approve, we're going to go the other way. So that's no big deal.

Melissa Mischke: Okay, if there are no further questions, then I'll entertain a motion.

Eric Pointon: I will make a motion to approve this with the garage being completed no later than 90 days after the containers arrive. The containers cannot sit there alone.

Monalisa Kimmel: Okay.

Eric Pointon: The garage has to be completed right away.

Monalisa Kimmel: All right, we'll work on it.

Jeff Baltes: Second.

Melissa Mischke: I have a motion and a second to approve and completion of the building must happen within 90 days of the containers arrival. All those in favor, say aye. All those opposed, same sign.

Motion to approve this petition passed 4 – 1.

Melissa Mischke: Good luck. Make sure you work with their building commissioner's office. Mostly working.

New Business

Melissa Mischke: Mr. Building Commissioner, do we have new business?

Mike Polan: Yes, ma'am. I have two items under new business. The first one will be an update on the 305 West Johnson Road, the old Center Township Fire Department. We have issued 1 violation and fine. Another is in process. We have had an on-site meeting there. Myself, our attorney, their attorney, and their owner met to discuss a path to compliance, aesthetic improvements, and expected construction to occur on the site. The owner has taken steps towards that, including at least a partial state release on some of what he's proposing.

Melissa Mischke: So you feel like that's moving in a positive manner?

Mike Polan: Yes.

Jeff Baltes: Are they complying with the violations and the one fine that was put in place? Are they doing something about it?

Mike Polan: They don't agree that it's a violation, and they reserve the right to appeal that to this board.

Melissa Mischke: Is there any further new business?

Mike Polan: Yes, ma'am. Before I get into the second item, does our attorney have anything to add to the fire station?

Attorney Andrew Voeltz: Madam President, I would dovetail with what Mr. Polan indicated that the situation is fluid and things are happening. I think that was the tone and tenor of the board's decision that was made months prior is that something has to happen. It is my understanding that substantial compliance with the board's directives following that meeting are being adhered to. Again, this is not something that's going to happen overnight, but it is happening. The building commissioner is certainly exercising his ability to enforce the determination as made by this board. That continues on a daily basis, as indicated by the building commissioner's action with one violation and a subsequent and an associated fine is with that and another violation letter that is going out. So it's not that the building commissioner is sitting on his hands or they're not doing anything. It also needs to be recognized that the original petitioner is still working to comply with the specific terms and conditions as provided by this board.

Melissa Mischke: Very good. Thank you. You have another item.

Mike Polan: Yes, ma'am. I have signed a use determination letter for a BESS facility located in KIP and M1 or M2 zoning. This is pursuant to section 2.06 in the JZO regarding the building commissioner's authority. I think I sent you all a copy of that letter. In the letter, I made it conditional, similar to what this board has previously

approved on a special exception for a BESS facility and ag zoning. So if this were to come to us in any other zoning, such as ag or whatnot, you know, they would still have to come here. But since it was M1, M2, and that's where the county has indicated they want to move these facilities to, we found it appropriate. We had a meeting with unanimous consent regarding it. I don't know if our attorney has anything to add to it.

Melissa Mischke: Is our current JZO stating M1 & M2 zoning for these facilities?

Mike Polan: The property where this will be located is designated M1 & M2 zoning. There is nothing in the JZO that specifically designates best facilities to a specific zoning. It does designate utility substations to M1 & M2.

Attorney Andrew Voeltz: Madam President, just once again to dovetail on Mr. Polan's presentation, section 2.06 specifically does provide for the avenue in which the enforcement officials shall consider specific characteristics of the proposed use and then compare them to the characteristics of the uses that are listed in the JZO. So in this situation, it's the utility substation. The building enforcement official, who is Mr. Polan, does then have that ability to consider those characteristics, such as traffic generation, types of services offered, types of goods produced, methods of operation, noise, hours of operation, building characteristics and it is within the power granted him by the JZO to issue this determination letter. The reason why the determination letter is issued, and then this is provided as information to the board, is there is a statutory period for which notice now has been provided. So effective the date of the signing of that letter, which was July 20th of 2026, this notice period is now starting for purposes of anything further down the road. Mr. Polan is completely accurate that the building commissioner's office does have this ability to do this as the enforcement official.

Eric Pointon: Real quick question. We're very limited as to what we can do on a BESS facility, correct? Because that falls under Department of Homeland Security.

Mike Polan: Yes, the significant jurisdiction lies with DHS. We do have some local home rule as far as far as zoning designations on where we can make them go.

Eric Pointon: Thank you.

Melissa Mischke: Tony, do you have anything you want to add or question?

Tony Oss: Nope.

Misc Person in the Audience asked an inaudible question.

Melissa Mischke: The remonstrance is where we listen to public comment. If you heard me in the beginning of the meeting, that's the only time we have public comment. I would suggest maybe taking your concerns to the Board of Commissioners. Anything else?

Mike Polan: No, ma'am.

Eric Pointon: Make a motion to adjourn.

Ernie Schmidt: Second.

Melissa Mischke: Okay, we have a motion to adjourn and a second. All those in favor say aye.

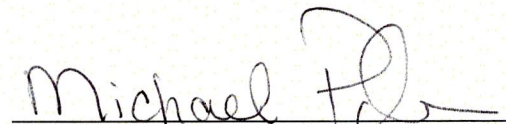
Motion to adjourn approved 5 – 0.

Melissa Mischke: Thank you, everybody. Have a good night.

Meeting Adjourned at 7:39 p.m.



Melissa Mischke, President



Michael Polan, Recording Secretary