

**Porter County Board of Zoning Appeals
Regular Meeting Minutes
March 16, 2016**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, March 16, 2016, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

Members present were: Mitch Peters, Michael Young, Luther Williams, Marvin Brickner (arrived after roll call) and Debbie Cook. Also present were Attorney Scott McClure, Kristy Marasco, Monica Gee, Helene Pierce, citizens, and representatives of the press.

MINTUES:

Mitch Peters made a motion to approve the December 3, 2015, January 20, 2016, and February 17, 2016 meeting minutes as submitted. Michael Young seconded the motion. A roll call vote was taken and unanimously carried 4-0. (Brickner was not present at the time of this vote.)

CORRESPONDENCE:

Attorney Scott McClure advised there is one letter of correspondence that will be read into the record during the appropriate case.

OLD BUSINESS:

None.

NEW BUSINESS:

UV-16-0009 – Michael Tisma, 294 East 600 North, in Washington Township, in the RR, Rural Residential District. The petitioner is seeking a Use Variance renewal to allow for a winery and other commercial activities located in a Rural Residential zoning district. Ms. Kristy Marasco provided a staff report noting that the last approval was five years ago and there have been no changes or complaints. Mr. Michael Tisma and Ms. LeAnn Sasser presented. They would like to continue their business as is.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Debbie Cook also asked that the public address their questions to the BZA while at the same time the petitioner will take notes and respond at one time. No one spoke, therefore, the public hearing was closed and questions/comments were heard from the Members.

Q: Has your business started?

A: No. The pole barn is almost complete and the home renovations are done and ready for a tasting room. We will be moving forward with the business next year.

Q: When you came here originally, we talked about proper disposal of grape residue, but no specifics were given at that time. Do you have a more definitive answer at this time?

A: The approval at the time stated that the waste must be transported away. Most of our wine will be made from juice so we will have a limited amount of waste.

Q: The barn looks to be in disrepair. Will you be fixing it?

A: Yes, hopefully in the Spring.

Q: Will you be selling produce this year?

A: No.

Motion: Mitch Peters made a motion to approve UV-16-0009 for five (5) years with the same stipulations as previously granted and a new public hearing in five (5) years should the petitioner choose to renew at that time. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 5-0.

DV-16-0010 – Ronald Rocheleau, 237 South 725 North, in Porter Township, in the RR, Rural Residential District. The petitioner is seeking a Developmental Standards Variance to allow for an increase in the maximum floor area and increase in height for a proposed (42'x80') pole barn to be used for personal storage. Mr. Ronald Rocheleau presented. He is taking down an existing disheveled barn and replacing it with a new pole barn. As proposed the new pole barn will be 2'5" higher than what is allowed at the peak and 6' longer than what is allowed, therefore, he is seeking a variance for both.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Debbie Cook also asked that the public address their questions to the BZA while at the same time the petitioner will take notes and respond at one time.

Mr. Greg Kochale, 241 S 725 W, neighbor to the south, stated that this will be a good improvement to the property and the aesthetics of the area. What is proposed is suitable for the area and there are no neighbors close to it.

The public hearing was closed and questions/comments were heard from the Members.

C: Mr. Brickner stated the proposed barn is too big and too tall and doesn't fit in a residential area. He also states that the run off will go directly into the neighbor's properties.

R: Mr. Rocheleau advised that any run off will continue to go onto his own property and will not affect the neighbors.

Q: How large is the existing building that you are removing?

A: 20x30.

Motion: Mitch Peters made a motion to approve DV-16-0010 contingent upon the existing accessory structure being removed and the new structure being in its same location. Luther Williams seconded the motion. A ballot vote was taken and carried 4-1 (Brickner).

UV-16-0011 – James Oliver, 83 West 550 North, in Center Township, in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow for the operation of a business office for firearms transfers, internet gun sales and gunsmith activities out of the home. Mr. James Oliver presented. He would like to have an internet based firearms business out of his home. There will not be a showroom, and very few transfers will take place. He does not intend to process firearms on site. Firearms will be purchased online and delivered to my home. They may not be left by the carrier, but must be signed for by Mr. Oliver. Once received he will then

transfer the firearm to a Federal Firearm License licensed carrier. There will be no signage and no changes to the home. He will not have ammunition sales or storage at the home. At this time Mr. Oliver anticipates five (5) people/transfers per month maximum. Background checks are completed prior to someone purchasing a firearm and Mr. Oliver reserves the right not to deliver a product if he feels the recipient is questionable in some fashion.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Debbie Cook also asked that the public address their questions to the BZA while at the same time the petitioner will take notes and respond at one time.

Ms. Karen Church, 86 Fleetwood Drive, states that Mr. Oliver's proximity to families and children is far too close. There are 14 children within walking distance of Mr. Oliver's home.

Mr. Raymond Vincel, 570 Royalwood Drive, states traffic is a concern. This is not in the best interest of the community nor the safety of the children. What exactly does the gunsmithing part of the variance entail; it was not explained.

Mr. Larry Nowlin, 87 W 550 N, states he does not want any business in this area and no variances for such. Not having signage could make people go to the wrong address. Will Mr. Oliver be renting office space for this business?

Ms. Vicky Gadd, 551 Fleetwood Drive, states she agrees with the others' statements. She has a great fear of guns coming and going around this area. This is very close to a large subdivision that has a lot of walking and playing outdoors.

Mr. Greg Fisher, 84 Royalwood Drive, states that the overall wellbeing and health and safety of his family and families in the subdivision will be affected. The subdivision has covenants for our quality of life and we want that type of community, not one that is put at risk by an adjacent property owner. This type of business is at risk for break-ins. There is a place for firearms to be sold and a residential home is not it. This will affect property values as well.

Ms. Lani Fisher, 84 Royalwood Drive, states that the children of the neighborhood and the property values are all concerns as well as agreeing with the statements of the others. She wouldn't purchase a home here knowing that a firearms business is right next door so someone else might not either. Background checks are helpful but not fool proof.

Mr. Jeff Golden, 60 W 550 N, questioned what is gunsmithing? Mr. Golden states that proliferation of this type of variance application was mentioned at a previous meeting. The application states 20 transfers per month and tonight Mr. Oliver is stating 4-5 per month. Will Mr. Oliver have increased security at his home? If so, what kind? What about this piece of property makes it conducive to gun sales versus other properties? This property is too close to the neighborhood playground. We don't our homes to become a target. What is Mr. Oliver's background? Others that have been approved of this variance type have extensive law enforcement experience.

Ms. Lisa Chiabai, 573 Fleetwood, states that there are many subdivisions in this area. Firearm transfers are a concern. We don't want the reputation of having a "gun house" nearby.

Mr. David Littlejohn, 88 Royalwood Drive, states the area is all residential and there are no businesses. We don't want a business here. He agrees with all the other statements made by neighbors.

Mr. Rick Burns, 573 Wedgewood Drive, states that traffic is a concern in this area. 550 North is a heavily traveled road and high speed. Traffic stops when someone has to turn into a driveway. Mr. Burns questions if purchasers will be testing their guns at this location? This business is out of character for this area. It is all residential and there are no other businesses.

Ms. Carol Dowd, 583 Keldon Court, states the 550 North is a designated bike route for Porter County and there are a lot of bikers through this area. The playground for the adjacent neighborhood is directly behind Mr. Oliver's house. Ms. Dowd questions, if approved, does a Use Variance only go with this person and this business or does it go to the property? As a child she witnessed an accidental discharge. It's a very real and very scary thing.

Mr. Oliver's rebuttal:

- All concerns are understood.
- He is trying to obtain a Federal Firearm License that requires a record of every transaction and the Bureau of Alcohol, Tobacco, and Firearms closely governs and reviews this business.
- I did put 20 transfers on my application but further research has made me change that number of 5 maximum per month based on other businesses of this type.
- This will not be a store. I do not plan to expand. If the business grew larger than expected I would find a commercial space.
- Gunsmithing would be minor. I'm not taking anything a part, there will be no testing on sight. It would be more of mounting a scope or adding a stock. Upgrades are included in the license. Anything more than that is considered manufacturing and my license does not allow for that.
- With regards to security, I am not altering the state of my home. I have added deadbolt lock and chains on the doors and I have a gun safe and security cameras. I have guns in my home now. I am an avid hobbyist and I believe in gun safety.
- I am 35 years old and I have been around guns my entire life. My father was a Michigan City police officer my entire life.

The public hearing was closed and questions/comments were heard from the Members.

C: Attorney McClure advised that if approved, the variance is applied to this property for a certain amount of time that requires Mr. Oliver to come before this board for any and all renewals. Attorney McClure also advised there is a letter to correspondence to this case that is part of the Members' packets for their review.

Q: What is the process that someone has to go through to get a Federal Firearms License?

- A: I submitted the application to the ATF. That requires the Porter County Sherriff's approval. After that is goes to the ATF for their review. Fingerprints, photo, extensive background check and onsite inspection of the property are all required. Once that is accomplished everything is submitted to the State. I have been approved for handgun sales by the State. If the variance is approved then the ATF will come out to my home and inspect the premises and perform an interview. After that I will be notified if I receive my license.
- C: There are some great concerns with this area. 550 North is a heavily traveled road. Although not against firearm sales as whole location is a huge determining factor. Children, park, and traffic are all valid points.
- R: I don't disagree. I like this neighborhood and community, however I can legally sell a firearm from my home in a private transaction now without any kind of variance. I want to do the type of transaction that has background checks and paperwork and records are kept.

Motion: Mitch Peters made a motion to deny UV-16-0011. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 5-0.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the March 16, 2016 Board of Zoning Appeals meeting adjourned at 6:22 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco
Assistant Director