

**Porter County Board of Zoning Appeals  
Regular Meeting Minutes  
September 21, 2016**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, September 21, 2016, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

Members present were: Michael Young, Luther Williams, Marvin Brickner, and Debbie Cook. Also present were Attorney Scott McClure, Kristy Marasco, Monica Gee, Helene Pierce, citizens, and representatives of the press.

**MINTUES:**

Motion: Marvin Bricker made a motion to approve the July 20, 2016 regular meeting minutes as submitted. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 4-0.

**CORRESPONDENCE:**

Attorney McClure advised that the Lloyd case would not be heard at this meeting and will instead be heard at the October 19, 2016 meeting.

**OLD BUSINESS:**

**DV-16-0039** – Paul Forney, 535-2 East 900 North, in Jackson Township, in the RR, Rural Residential District. Continued from the July 20, 2016 meeting the petitioner is seeking a Developmental Standards Variance extension to allow for an accessory structure prior to construction of the primary structure located in a Rural Residential zoning district. Mr. Paul Forney presented. He has received his prints and now he is waiting on the site plan in order to apply for well and septic. He received preliminary drawings today. The survey is scheduled to tomorrow and he plans to apply for well and septic immediately following site plan approval.

Q: When do you expect to break ground?

A: Spring, 2017.

Q: Did you finish the accessory building?

A: Yes.

Q: Are you keeping up the maintenance of the property? Landscaping, weeds, etc?

A: Yes. I spoke with my neighbors and they had no complaints.

Q: You understand that if future dates are not adhered to, then you will lose the accessory structure?

A: Yes.

Motion: Marvin Brickner made a motion to approve DV-16-0039 until the April, 2017 regularly scheduled meeting at which time the petitioner will present an update. If at that time a building permit has not been pulled the accessory structure will have to come down. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-16-0059** – Kathleen Huff, 254 West Division Road, in Porter Township in the A1, General Agriculture District. The petitioner is seeking a renewal of a Use Variance to allow the operation of a bait and tackle business with a 3’x5’ sign on the building. Kristy Marasco provided a staff report noting there have been no complaints regarding this property/variance. Ms. Kathleen Huff presented. She has had a great response to the business and has collected 195 signatures of patrons happy to have the business at this location.

Q: Is the sign new or existing?

A: Existing on the building.

Q: Business is good?

A: Yes.

Q: Are you open throughout the winter months?

A: Yes.

Motion: Marvin Brickner made a motion to approve UV-16-0059 for five (5) years noting a new public hearing will be required at that time. Luther Williams seconded the motion. A roll call vote was taken and unanimously carried 4-0.

**NEW BUSINESS:**

**UV-16-0048** – Leona Sibó, 403 West State Road 130, in Union Township in the RR, Rural Residential District. The petitioner is seeking a renewal of a Use Variance to allow a grooming business located in a Rural Residential District. Kristy Marasco presented a staff report noting there have been no complaints regarding this property/variance. Ms. Leona Sibó presented. She would like to continue her 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: Do you have signage?

A: No, I was told I could not.

C: The property is very well maintained.

Motion: Marvin Brickner made a motion to approve UV-16-0048 for five (5) years with the same conditions as previously granted and a new public hearing in five years. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**DV-16-0049** – South Michigan Realty, c/o Nick Paulauski, 402 West U.S. Highway 6, in Portage Township in the CH, High Intensity Commercial District. The petitioner is seeking a Developmental Standards Variance to allow for a double sided LED advertising sign to replace the existing legal nonconforming sign. Mr. Nick Paulauski presented. He would like to replace an existing sign.

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: What colors are you planning to use?

A: Yellow and red as allowed by the Ordinance.

Q: How bright will the sign be?

A: Not sure on exact numbers.

Q: Will there be flashing, blinking, scrolling, etc?

A: No.

Q: Only one message per day?

A: Yes.

Q: Background color?

A: Yellow with amber or red letters.

C: Attorney McClure noted that at this time they are only asking to replace a nonconforming sign. The petitioner will have to follow all of the requirements of the Ordinance or seek an additional variance.

Motion: Michael Young made a motion to approve DV-16-0049 as presented. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-16-0055 – Keith and Beth Dougherty, 356 East 100 South, in Morgan Township in the A1, General Agriculture District. Petitioner is seeking a renewal of a Use Variance to allow the operation of a custom woodworking shop out of a pole barn on the property. Kristy Marasco presented a staff report noting there have been no complaints regarding this property/variance since 1996. Keith and Beth Dougherty presented. They would like to continue what they have been doing for the past 20 years.

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: Do you have any signage?

A: No.

Q: Do you have any employees?

A: Occasionally I will hire a part-time person when needed.

Motion: Marvin Brickner made a motion to approve UV-16-0055 for five (5) years at which time a new public hearing will be required and with the same stipulations as previously granted. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-16-0051/DV-16-0052** – LaLonde Personal Trust, c/o Gregory T. Babcock, 394 Tratebas Road, in Jackson Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow construction of a two-story (3) car garage with the upper level to be used as additional living space and a Development Standards Variance to allow for an increase in maximum number of accessory structures, from the allowed three (3) to four (4) to allow for a proposed two-story (3) car garage with the upper level to be used as additional living space; and to vary from the required 20-foot height requirement to allow for 26 feet. Attorney Greg Babcock presented. Also present was Mr. Dwayne LeLonde, 404 N. Flynn Road, Westville, IN. Mr. LeLonde's parents have lived on the property at 394 Tratebas Road since 1974. This is a 5-acre parcel. Since his parents are becoming more elderly, he would like to build a garage with living quarters for Dwayne and his spouse to reside on the property with his parents. He is an only child and cares for his parent's needs. He will remove an existing structure and build a new one with a 26-foot maximum peak. The existing house is 100 years old so an addition onto the house won't really work. We have been to the Health Department and have been advised that they will approve a separate septic system for the new structure pending approval tonight. As well, the existing garage sits closer to the road. The proposed structure will sit back farther at 46 feet from the road. We have also placed a condition in the filing that this space will never be used as a third party rental. It is for family and guests of family only. The proposed living space will have a kitchen, two bedrooms, bathroom, living space, etc. Attorney Babcock presented a letter of support from the neighbor to the west, Dr. DiBiase.

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. Christopher Lane, 400 E Tratebas Road states he is in favor of this petition noting the Lalonde's are good neighbors and he has no issue with what is proposed.

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

Q: Does the petitioner completely understand that if approved, at no time shall this be allowed to have renters or any kind of third party income?

A: Yes.

Q: Is a 26-foot peak height necessary?

A: It won't be any more than that but in talking with the contractors we wanted to ask for that as a maximum because we are not sure what we will run into with the upper living quarters.

Q: Could it be brought down closer to the 20-foot requirement?

A: That is hard to do. A 26-foot maximum will not be out of character with the home because it is also multi-story. We are asking for no more than 26 feet but we do hope to be under that. The builder has not finalized the plans yet. We don't want to request less and then end up a few inches over and have to refile for a variance. The original plans called for 24 feet and that is what we are planning for, but we do not know for sure yet.

Q: Are you adding to the septic field?

A: No, we will have a new septic system for the new structure.

Q: Will the new structure be frame built?

A: Yes.

Q: Will the new structure match the home?

A: Not necessarily because the home is 100 years old.

Motion: Marvin Brickner made a motion to approve UV-16-0051 to allow construction of a two-story (3) car garage with the upper level to be used as additional living space with the condition that the living space may never be rented or income producing in the future. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

Motion: Michael Young made a motion to approve DV-16-0052 to allow for a fourth accessory structure on the property with a maximum peak height of 24 feet. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**DV-16-0054** – Erik McCoy, c/o E. Donald Bengel, 556 E. Burdick Road, in Pine Township in the RR, Rural Residential District. The petitioner is seeking a Developmental Standards Variance to allow for a two (2) lot Administrative Subdivision with the following requests:

- To vary from Maximum Width to Depth Ratio 1:4.
- A reduction in road frontage from the required 330 feet to 160 feet.
- A reduction in Minimum Front Yard Setback for an existing accessory structure.
- An existing accessory structure to remain in the front yard.

Kristy Marasco presented a staff report nothing that she and Mr. Thompson have reviewed this case and there are a lot of wetlands on the parcel. We would request that the Army Corp of Engineers review the case and release the wetlands as a contingency of approval. Mr. Bengel presented. Topography of the site is the reason for the variance requests. Parcel A's wetlands don't interfere too much, but Parcel B has a lot of wetland interference. The existing house is where Mr. McCoy resides currently. He removed an old home and built a new one a few years ago. There are other barns and sheds on the site already. These two parcels are not really affected by the existing structures.

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. Paul Vogel, 532 E. Burdick Road, Chesterton, questioned why the petitioner is seeking a variance for road frontage especially since 2/3 of the property is under water. There are no small lots in this area. What are they doing with the old barn that has been there for 100 years? What are they planning to build? Why do they need a reduction in frontage?

Kristy Marasco advised that an administrative subdivision requires 330 feet of road frontage for each lot and Mr. McCoy only has 160 feet, at which point it hence the request for a variance.

Ms. Nancy Eagen, 575 E. Westville Road, questioned how many houses they are planning to build and will it be Mr. McCoy's family that resides there? As well, the wetlands on their property tie into her wetland and she questions how they will be affected?

Mr. Bengel's rebuttal:

- There are two parcels that make up beautiful, secluded building sites.
- The average frontage would be greater than 160 feet.
- To develop the parcels we cannot meet the depth to width ratio.
- Access would be through an easement.
- The maximum number of lots would be 3-4 over the 45 acres. There is one residence on the 45 acres now. We expect to build two additional residential homes.
- We won't harm or fill in the wetlands but we can build and will be high enough.

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

Q: County Road 575 will be your access point?

A: Yes via an easement.

Q: How much of the 20 acres is not wetlands?

A: Parcels A & B together are 20 acres. The driveway easement is wetland for both lots.

C: Mr. Thompson wanted us to do an administrative subdivision for 2 parcels and then come back for a minor subdivision on the rest if we want to develop in the future. We may or may not do that. We won't be building near the wetland.

C: There is a low ditch between 575 and the existing house that is going to be very low to try and build a house.

R: That is not part of our request tonight.

Q: Will both parcels have access from the north with an easement?

A: From the east and it will go around the north side of the parcel.

Q: One access for both parcels?

A: Yes.

Q: Does the existing home have its own access?

A: Yes.

Q: Of the 10 acres of Parcel A, how much is wetlands?

A: Approximately half.

Q: Of the 10 acres of Parcel B, how much is wetlands?

A: Not sure. That is more of the drive around area.

C: We plan to build high so we won't affect the wetlands.

C: There is a lot of questions as to the amount of wetlands in both of the parcels. In looking at the topography map, we are not seeing how there can be 5 acres in Parcel A that is not wetland and about half of Parcel B seem to be wetlands also.

R: If needed, we can bring some topography maps to show how much we can build.

Q: If we continued this case, what would we need to do before coming back?

A: Topography maps, wetland delineation, Army Corp of Engineers visit, and determine the location of the proposed houses.

C: There are too many issues with this proposal at this time.

Motion: Michael Young made a motion to deny DV-16-0054. Marvin Brickner seconded the motion. A ballot vote was taken and the motion carried 3-1 (Williams).

**SE-16-0056/DV-16-0057** – New Hope Church of God, c/o NTP Wireless, 712 North 450 West, in Portage Township in the IN, Institutional District. The petitioner is seeking a Special Exception to allow the construction of a new 130’ telecommunication tower and a Developmental Standards Variance to allow for a reduction in the side yard setback for a proposed 130’ telecommunications tower. Kristy Maraso noted that pamphlets were submitted and provided to Members prior to the meeting for their review. Mr. Chris Barton presented. We would like to install a 130-foot tower with Verizon Wireless at 120 feet. Currently we are 28 feet short of the required 60% tower height distance for the side yard setback. There will be a 40 x 80-foot fenced-in enclosure at the base of the tower with landscaping around it. The tower location on the parcel is due to the location of an existing septic system.

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. Louis Chinn, 465 W 700 N, Valparaiso, states his property borders the church property and he is opposed to this petition. He does not want a tower in his back yard. Do you have one in your back yard?

Ms. Mary Chinn, 465 W 700 N., Valparaiso, states she has been at this location for 25 years and it is all farmland behind her except for the church. She is opposed to having a 130-foot tower in her back yard.

Mr. Barton’s rebuttal:

- I live in Chicago where there is an antenna on every building rooftop as well as directly around where I reside.

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

Q: Is this the only place you can locate this tower?

A: To accommodate the network need, yes.

Q: Are there any others with 1-mile?

A: No. We tried to collocate on a water tower but that did not work out and we are already on two other towers within a 2-mile radius and one other would not help our network. The ordinance favors institutional districts and this fits.

Q: How tall is the tower?

A: 130 feet with four rods on top.

Q: Is the fall area adequate?

A: We are requesting a variance because we are 28 feet short of the required 60% of the tower height, however, monopole towers are designed to fall within themselves so the distance we have is adequate.

Q: Why a 130-foot tall tower? You won’t get any collocators at that height.

A: We are building what we need. This is not an urban area and not a rural area. Capacity is the issue and capacity affect speed not the ability to make a call. We know the demand of our customers. There will be collocators even with a 130 foot tower.

Motion: Michael Young made a motion to approve SE-16-0056 to allow the construction of a new 130' telecommunication tower noting the minimum requirements for a Special Exception are met. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 4-0.

Motion: Michael Young made a motion to deny DV-16-0057. Marvin Brickner seconded the motion.

Discussion on the motion: The petitioner requested tabling DV-16-0057 to give him an opportunity to bring in engineering documentation showing that a fall would be internal and not over the setback amount.

Michael Young and Marvin Brickner withdrew their motion.

Motion: Michael Young made a motion to continue DV-16-0057 to the October meeting at which time the petitioner will provide necessary documentation to show that a fall would be internal and not over the setback amount. Marvin Brickner seconded the motion. A voice vote was taken and unanimously carried 4-0.

**AP-16-0091** – Jeremy Lloyd, c/o Grady Carr & Chelovich, 566 North 175 West, in Center Township in the RR, Rural Residential District. The petitioner is appealing the decision (Denied) made by the Porter County Board of Zoning Appeals Hearing Officer at the June 23, 2016 meeting, requesting a Developmental Standards Variance (Case No. Dv-16-0033), to allow the exterior appearance of a proposed accessory structure, not to match nor closely resemble the primary structure, located in a Rural Residential zoning district. Attorney Scott McClure advised that this petition is being continued to the October 19, 2016 meeting.

Motion: Marvin Brickner made a motion to continue AP-16-0091 to the October 19, 2016 meeting. Michael Young seconded the motion. A voice vote was taken and unanimously carried 4-0.

**STAFF ITEMS:**

None.

**ADJOURNMENT:**

There being no further business, the September 21, 2016 Board of Zoning Appeals meeting adjourned at 7:14 p.m.

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Debbie Kerr-Cook, President

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Attest: Kristy Marasco  
Assistant Director