
**Porter County Board of Zoning Appeals
Regular Meeting Minutes
March 20, 2019**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, March 20, 2019, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

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

MINUTES:

Tabled to the regular April meeting.

CORRESPONDENCE:

Kristy Marasco advised Members received copies of an email in favor of petition UV-19-0007 and one email opposed to petition DV-19-0006.

OLD BUSINESS:

UV-14-0003 – Dale & Dawn Eliason, 746 West 700 North, Hobart, IN in Portage Township in the RR, Rural Residential District. Motion to deny; petitioner is no longer in need of the Use Variance permitting the operation of a business of a kennel for up to eight (8) animals from their residence. The petitioners have moved out of state.

Motion: Marvin Brickner made a motion to deny UV-14-0003. Michael Young seconded the motion. A voice vote was taken and unanimously carried 5-0.

NEW BUSINESS:

UV-19-0007 – Brad Perry, 1069 North 550 East, Westville, IN, in Jackson Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to permit continuing the operation of an excavating business from the residence. Mr. Brad Perry presented. He has a small excavating business where he keeps his equipment at his home property. Everything is stored indoors, and he has no plans to expand. Kristy Marasco noted that there have been no complaints.

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.

Motion: Marvin Brickner made a motion to approve UV-19-0007, with all previous stipulations, for five (5) years. Ken Williams seconded the motion. A ballot vote was taken and unanimously carried 5-0.

UV-19-0001 – Tesnie Turpin, 841 South 800 West, Hebron, IN in Boone Township in the R1, Low Density Single-family Residential District. The petitioner is seeking a Use Variance to permit continuing the operation of a business from the residence making candy and crafts to sell at fairs. Ms. Tesnie Turpin presented. She is a seasonal candy maker that sells online and at craft fairs. She has seasonal employees. No one comes to the home; there is no extra traffic, or noise, etc. Kristy Marasco advised there have been no complains.

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.

Motion: Ken Williams made a motion to approve UV-19-0001, with all previous stipulations, for five (5) years. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 5-0.

UV-19-0008 – Daniel Witkowski, 45 West 700 North, Valparaiso, IN in Liberty Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to permit continuing the operation of a saw sharpening and small engine repair business from the residence. Mr. Daniel Witkowski presented. There have been no changes to the business. Kristy Marasco advised there have been no complaints.

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. David Nicolaus, 709 North 50 West, states he is Mr. Witkowski's neighbor and he is in favor of allowing the continuation of this business.

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

Motion: Marvin Brickner made a motion to approve UV-19-0008, with all previous stipulations, for five (5) years. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 5-0.

DV-19-0006 – Ronald & Jane Fisher, c/o William Ferngren, 300 West, Valparaiso, IN in Porter Township in the A1, General Agriculture District. The petitioner is seeking a Developmental Standards Variance to vary from the following:

- the lot size to be less than ten (10) acres;
- allow a gravel, private road being less than 16 feet wide with than 8 inches of stone or gravel base;
- to not require street trees.

Kristy Marasco advised the petitioner is proposing four individual lots in an A1 zone all less than 10 acres in size. Attorney Bill Ferngren presented. Mr. Ron Fisher was also present. The property is a total of 125 acres and known as the Rigg Farm. The family is proposing to have four lots on the north portion of the property for individual family members to build homes and live on the property. All four lots will be less than 10 acres in size. 2.3 acres will be the smallest lot size and 4.3 acres will be largest lot size. This type of family farm housing is consistent with the area. They are proposing a traditional gravel private drive that will be narrower than 16 feet. There are a lot of trees, so they are requesting a variance from the street tree requirement. All of the homes on the proposed four lots will be owner occupied by members of the Rigg family, and they will continue to be good stewards of the land.

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. James Smith, 234 West 166 South, noted that a letter was sent from Henry and Susanna Hahn. The members noted they received copy of, and were able to review, the Hahn's letter prior to the meeting. Mr. Smith advised he shares 1,100 square feet of boundary with the Fishers and he has concerns with the aesthetics of the area and what precedent this may set if allowed. This is not a benefit to the adjacent property owners. He is opposed to the petition.

Mr. David Miller, 123 South 300 West, question why he did not receive a registered letter regarding this petition. He states the Riggs are family to the Ailesworth's and their (Ailesworth) property is currently for sale for subdividing. Is that what will happen here?

Mr. Daniel Golwitzer, 138 South 300 West, states allowing this will start a precedent for smaller lots. The gravel drive that they are proposing is already there, and a structure exists already.

Ms. Laura Asher, 140 South 300 West, states she agrees with the concerns of the neighbors.

Attorney Ferngren's rebuttal:

- The Fisher-Riggs have owned this property since 1859.
- The agricultural layout will be maintained and there will not be any encroachment to the agricultural area.
- This will not cause a negative impact. There are homes in this area and they are this size.
- Notice was sent according to the State statute which requires we send certified letters to properties within 500 feet of our property and we did that.
- The existing structure is a temporary shed that the family uses as a warming shelter when the grandchildren are sledding. It is not permanent. It is on skids, so it may be dragged around the property as needed. It does not have a foundation or any kind of permanent placement.
- Four lots on 125 acres is a good fit.

Attorney Scott McClure advised that this Board does not set precedents. Every petition is considered individually and to their uniqueness. Up to four lots may be requested under a minor subdivision. Anything more than that must go through the full subdivision process.

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

Q: If approved, what is planned for the maintenance of the private road?

A: There will be a private road agreement prepared that will state the requirements, and it will be public record.

Q: What is the logic that building houses will preserve the agricultural area?

A: The proposed plan does not use any of the agricultural area. The area for the houses is not used as farmland and is not tillable land. Residential use is allowed in this zone, however, if we are made to comply with the 10-acre minimum, then we are forced to actually use farmland and then we are wasting farmland and using agricultural area. What we have proposed is minimizing any impact to the agricultural area.

Q: What type of homes is being proposed?

A: Single-family, traditional homes. All will be built homes; not manufactured. The one we have plans for right now is 1,900 square feet and valued at \$330,000.

Q: Is there any leeway on the gravel road request?

A: The level of cost for anything else is a concern to the petitioner, and gravel is a permitted surface in Porter County. The petitioner will, however, agree to an asphalt or paved surface but will only install it as it's needed when each home is developed.

Q: What is the plan for the existing structure?

A: It is a shed on skids that simply gets pulled around the property as needed. It will go away once a warming shelter is no longer needed. It is not on a foundation and it is not permanent.

Motion: Michael Young made a motion to approve two parts of DV-19-00061 to allow an the lot size to be less than ten (10) acres; and to not require street trees, and to deny the use of a gravel, private road being less than 16 feet wide with than 8 inches of gravel base. Luther Williams seconded the motion. A ballot vote was taken and carried 3-2 (Brickner, Cook)

STAFF ITEMS:

Marvin Brickner questioned the state of the property located at 4703 N. Calumet. Attorney McClure advised staff is working on this, and the owner has been given a list of things to be done.

ADJOURNMENT:

There being no further business, the March 20, 2019 Board of Zoning Appeals meeting adjourned at 6:40 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco, Assistant Director