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**Porter County Board of Zoning Appeals  
Regular Meeting Minutes  
April 17, 2019**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, April 17, 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, Kelly Cadwell, Helene Pierce, citizens, and representatives of the press.

**MINUTES:**

Ken Williams made a motion to approve the January 16, 2019 and the March 20, 2019 minutes as submitted. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 5-0.

**CORRESPONDENCE:**

Kristy Marasco advised Members received copies written correspondence in their packets. Deb Cook advised there is a written correspondence with four (4) signatures in favor of Case UV-19-0018 that was not included in the meeting packets.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**UV-19-0018** – Troy & Maggie Quick, c/o Attorney Todd Leeth, 77 East and 89 East County Road 150 South, Valparaiso, IN in Morgan Township in the A1, General Agriculture District. Petitioner is seeking a Use Variance to allow a concert and religious festival on a single-day each year lasting approximately eight (8) hours. Attorney Todd Leeth presented. Troy and Maggie Quick live on 18 acres zoned A1, General Agriculture. Troy is the assistant pastor of his church and last year they hosted a faith and fellowship gathering, on their property, called the “Gospel Bowl”. They are here today because they would like to do this again, however, there was some question last year, so they want to make sure they have followed proper procedure. The Gospel Bowl consists of a concert, stage, and sound. The Quick’s property is bowl shaped creating a good area for such an event to take place. They are seeking a Use Variance to allow a one day per year, 8-hour, no lighting, and ending by 7:00 p.m. event. This case was reviewed by DRC and parking was discussed. There was an off-duty officer present last year for security and parking detail and they will have one present again this year. There are professional food handlers. Porta-lets were provided and removed immediately. There were no issues.

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. Marianne Kalinke, 93 East 150 South, states she faxed a letter to the Members earlier in the day and read aloud the letter provided. She is opposed to this event citing noise, traffic, number of persons, and noting the festival will get larger, have a negative impact on the neighbors, there is no hardship, and demonstrates a special privilege. She opposes the petition.

Ms. Mindy Johnson, 91 East 150 South, states her driveway was blocked several times throughout the day last year causing issues. There were 500 people and one security officer. It was loud all day, there was no EMS, no handicap accessibility, and attendees yelled their religious beliefs at her in a negative fashion. She opposes the petition.

Mr. Ed Dumas, 87 East 150 South, states he shares 500 feet of common driveway with the Quicks and every vehicle passed by his home. It was a beautiful and peaceful event. There was no alcohol or drugs. It was a celebration more than a concert. He has no issues with getting in or out during the day. He is in favor of the petition.

Mr. Robert Schiesser, 73 East 150 South, states he works midnights and was unable to sleep during the day due to the noise. Why is this event not hosted at their church or a more suitable place? He opposes the petition.

Ms. Evelyn Schiesser, 73 East 150 South, states the day was upsetting. It was loud, and no one was informed that this large event would be taking place. She opposes the petition.

Ms. Michelle Andres, 74 S. Niles Drive, states she grew up on the property where the event was held and attended the event. The concert was in the center of 18 acres and had several acres of buffering. It is not being appropriately described by those in opposition. She is in favor of the petition.

Ms. Laura Moreton, 65 East 150 South, states she was properly informed of the event, the road was open throughout the day, the music ended early, and was not too loud or destructive. She is in favor of the petition.

Attorney Todd Leeth's rebuttal:

- A1 zone is a farming classification and high intensity business use. Dust, noise, etc. are all expected on a limited basis.
- This gathering is one time per year. The UDO does not list this type of gathering anywhere.
- The topography of this property prevents it from being farmed.
- There is no land conflict for one day, 8 hours.
- Noise is self-contained within the bowl and 18 acres.
- This is not a blanket approval and no precedent will be set. Every case is looked at individually.

- With regards to hardship, the Federal Statute state there has to be an overriding interest to deny and there is not in case.
- Police responded to a call during the event last year. The report stated there was no blocking of the driveway, the music could not be heard and contact name and number was provided to the officer should any other complaints be called in. We believe this report to be the most credible testimony. Attorney Leeth submitted a copy of the police report to the Members.
- DRC discussed not having EMS on site and it was decided that because the route to and from was completely passable at all times that would be sufficient in the event of any emergency.
- This event is done through donated services, concessions, etc. There is little to no cost to the church and that is why it was able to be done.
- Noise was not unduly burdensome. No more than someone having a party at their home.

Mr. Robert Schiesser, where their church located is and how many members does it have. If everything is donated, then what difference does it make as to where the event is held?

Ms. Debbie Hannah, 402 Abraham Avenue, Kouts, states she lived on this property for 30 years and her in-laws were there before that. Her mother-in-law was dedicated to the glorification of the Lord. The surrounding neighbors and area have plenty of big bon fires with alcohol, etc. and we have never complained.

Ms. Mindy Johnson, what will be done regarding the social media posts that were targeted toward her? Driveways were blocked, perhaps not at the moment the officer was taking his report, but they were.

Mr. Hyrom states they do not push their religion on anyone opposed to the people in the area that hang dolls from trees with arrows through their eyes and stomachs. One neighbor has sewer drainage within five feet of them and they do nothing. Ms. Mindy Johnson stated the dolls are on her property left up from a private Halloween event they hosted.

Ms. Evelyn Schiesser, do we need additional insurance since we are next door? Are we liable if someone wanders onto our property?

Mr. Troy Quick rebuttal:

- This is not a local church, only activity. All religions and all people are welcome to attend.
- He is the assistant pastor at Life Church at 805 Evans Avenue, Valparaiso. Members from the church help with the event but it is not exclusive to their membership.
- Their membership is 60-70 persons. Their facility could hold a maximum of about one hundred and that would be crammed.
- The neighbor to the west has 15-feet of brush that someone would have to go through to get on their property which is not likely. Trespassers have very little rights.

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

Q: If something like this requires a variance then what about graduation parties, birthday parties, etc.? This property has been used in similar ways since the 1970's. Why is a variance even needed?

R: Ultimately, it is considered a festival with open invitation, food vendors, etc.

Q: What are the hours of the event?

A: 11:00 a.m. to 7:00 p.m.

Q: Was the alleged blocking of the road on the shared driveway or on 150 South?

A: Allegedly on 150 South, however, not according to the police report. All vehicles were parked on the 18 acres. There was no parking on any of the drives or roads. The only time something may have been blocked would have been very temporarily while cars were pulling in and/or out of the parking area, waiting to turn. We had parking attendants to help with parking and getting in and out.

Q: How many parking spaces are available?

A: We set up 300 spaces and had 10-12 people working as parking attendants. We only used about 1/8<sup>th</sup> of the parking spaces at one time. We had someone counting cars throughout the day and we counted 500 total for the day.

C: Getting out onto 150 South is a concern.

R: The lilac bushes that were causing some sight view issues have been removed. The large Oak tree remains, and we are willing to alter the exiting area to accommodate for that. Last year we had a spotter at the exit area and we will commit to that annually as well.

Motion: Marvin Brickner made a motion to approve UV-19-0018 for two (2) years with the following stipulations: egress from driveway must have a spotter and/or be improved for sightlines; all DRC recommendations are included; parking allowed for up to 300 cars at one time; no parking aloud along 150 South, no parking along the shared driveway or on any other surround properties, no alcohol; no fireworks; hours of event 11:00 a.m. to 7:00 p.m. only; one time per year; and adjacent property owners must be given at least 30 days' notice of the date of the event via first class mail. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 5-0.

**DV-19-0019** – JK Investments, LLC, c/o Todd Leeth, Sanctuary Drive (between Tower Road & Scotsraig Drive), in Center Township the R4, Multiple-family Residential District. The petitioner is seeking a Use Variance to vary from landscaping requirements and allow the following requests: rear yard setbacks from 20' to 15'; minimum parent tract area from 5.0 acres to 4.53 acres; maximum impervious surface from 60% to 77%; and minimum number of attached dwelling units from 3 to 6. Attorney Todd Leeth presented. Steve Stofko with Mecca Engineering was also present. The petitioner is also scheduled to go before the Plan Commission later this month to allow for 40 lots instead of 37. Tonight's variance requests are needed regardless of the Plan Commission's approval. Tonight, we are talking about five (5) undeveloped lots on the east side of Sanctuary Drive. The lots back up to Aberdeen Golf Course so there are no rear neighbors and plenty of open space. We are requesting rear yard setbacks of 15'. We are asking for a minimum parent tract area of 4.53 acres. Development started in this area in 2004 predating the current UDO. Maximum impervious surface of 77%. This is a 17% overage. There is an onsite detention pond and it is sized appropriately. A storm water plan was submitted for review. With regards to the minimum number of attached dwelling units, lot 4 has

two units and the code requires 3-6. We are one less on lot 4 due to the wetlands and not being able to put anything more on it.

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. Rachel Feldman, 85 Sanctuary Drive, questioned if the proposed townhomes for the east side will be comparable in value to those on the west side?

Mr. Larry Wright, owns two adjacent vacant lots to the north in Eagle View subdivision. The lots are on the market. What considerations are being made for these adjacent properties?

Mr. Rich Shields, 77 Sanctuary Drive, states that there are 12 townhomes now and as proposed the area will double in capacity. This causes wastewater and traffic concerns?

Attorney Leeth and Steve Stofko's rebuttal:

- The value of the homes on the east side has been designed to be in the same nature as those on the west side.
- There will be landscaping to the north. 90% of the landscaping is focused on the north side and around the wetland area.
- There is a lift station at the northeast corner of our lot 1. We are working with the conservancy to raise the lift station about the road. This will be an improvement to the area's wastewater plan.
- The first replat was for 37 units and the subdivision's drainage, road system, traffic, etc. was all designed for 37 units. We will be requesting three more at Plan Commission; however, it is a negligible difference and is all still capable of handling everything.

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

Q: Four of the five variances are needed regardless of whether the Plan Commission approves the three additional lots?

A: Yes.

Q: Does the Landscape Plan anticipate the three additional lots?

A: Yes.

Q: With 3.3 acres of impervious surface, how will run off get to the retention pond?

A: There is a drainage easement on the east side of Sanctuary Drive that will run through a trench drain to the lift station. There is a limited amount of grass by design because it is then low maintenance.

Q: There is no plan for trees behind the lots?

A: Grading in the rear of the lots proves difficult. There will be walkout units and a retaining wall on lot 1. There are seven (7) trees planned along the rear buffer area. The lots are not large and they back up to a golf course, so the number of trees is limited because people want the golf course view. We are not trying to buffer the view.

Motion: Marvin Brickner made a motion to approve UV-19-0019 contingent upon Plan Commission and Storm Water approval for landscaping purposes. Ken Williams seconded the motion. A ballot vote was taken and unanimously carried 5-0.

**DV-19-0017** – Union Township School Corporation, c/o Landmark Sign Group, 587 West 300 North, Valparaiso, IN in Union Township in the IN, Institutional District. The petitioner is seeking a Developmental Standards variance to allow for a new sign to vary from the following: An increase in size from the allowed 50 square feet to 99 square feet; an increase in height from 8-foot (8') to 9-foot 9 inches (9'9"); and to allow more than one message within a 24-hour period. Mr. Shawn Ensign with Landmark Sign Group presented. Union Township School would like to place a new sign at Union Township School. The proposed sign is a 99 square foot monument style sign, including the cabinet and top caps, that has 64 square feet of signable area. The cabinet size is a 3:1 display ratio and is adequately sized for the vast open space and street frontage at the location. The 9'9" height is due to provide a better visual due to the low-grade area the sign is placed in. The school will be using the existing concrete pad. The sign has an auto dim feature for nighttime and low-lit times of day. The petitioner is requesting the message center be able to change up to three (3) times per day for more effective messaging for school information, athletic events, and closings.

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: Why is 99 square feet necessary?

A: The square footage includes the top cap reveal, the bottom cap reveal and the sign cabinet. The message center is only 64 square feet. The sign cabinets come in standard sizes and cannot be custom built.

Q: The proposed sign will not cause any site line issues?

A: No.

Motion: Ken Williams made a motion to approve DV-19-0017 as presented. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 5-0.

**STAFF ITEMS:**

None.

**ADJOURNMENT:**

There being no further business, the April 17, 2019 Board of Zoning Appeals meeting adjourned at 7:38 p.m.

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Debbie Kerr-Cook, President

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Attest: Kristy Marasco, Assistant Director