



**Porter County Board of Zoning Appeals
Regular Meeting Minutes
July 15, 2020**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, July 15, 2020, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

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

MINUTES:

Marvin Brickner made a motion to approve the February 19, 2020 minutes as submitted. Michael Young seconded the motion. A voice vote was taken and unanimously carried 3-0.

CORRESPONDENCE:

Kristy Marasco reported all correspondence was provided to the Members in their meeting packets.

OLD BUSINESS:

UV-15-0013 – John Brubaker, Garden Terrace Subdivision, 2202 Burlington Beach Road, Valparaiso, IN in Center Township in the R1, Low Density Single-Family Residential District. The petitioner is no longer in need of the Use Variance allowing the operation of a firearm internet business from the residence.

Motion: Marvin Brickner made a motion to deny UV-15-0013. Michael Young seconded the motion. A voice vote was taken and unanimously carried 3-0.

UV-15-0014 – Carol Stonehouse-Flanigan, 949 South 250 West, Hebron, IN in Boone Township in the A1, General Agriculture District. The petitioner is no longer in need of the Use Variance permitting the operation of a small engine repair shop and chainsaw sharpening business.

Motion: Marvin Brickner made a motion to deny UV-15-0014. Michael Young seconded the motion. A voice vote was taken and unanimously carried 3-0.

NEW BUSINESS:

UV-20-0003 – WITHDREW – Green Sense Farms Holdings, Inc., c/o Attorney Todd Leeth, east side of Meridian Road (south of Toll Road), Chesterton, IN in Liberty Township in the R1, Low Density Single-Family Residential District. The petitioner is seeking a variance to allow a greenhouse and vertical farm business in a residential zoned district. This petition was withdrawn by the petitioner.

UV-20-0008 – Deborah Pressel, 111 South Smoke Road, Valparaiso, IN in Morgan Township in the A1, General Agriculture District. Petitioner seeks approval to continue the business of an in-home CPA office. Deborah and Kevin Pressel presented. There have been no changes. Deb is the only person that works out of this home office. 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-20-0008 for five (5) years with the same stipulations as previously granted. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-20-0012 – Crisman Sand Company Inc., c/o Attorney Todd Leeth, 736 North 400 East, Valparaiso, IN in Jackson Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow the mining of sand on parcels of land located in the residential zoning district. Attorney Todd Leeth presented. Glenda Snyder, President of Crisman Sand was also present. The parcel we are talking about this evening is approximately 15 acres of a total 84.5-acre parcel. Crisman Sand has been mining sand at this location since 1978, however, now they are needing to move the physical location, while remaining on the same property, of where their mining will take place. When they started mining in 1978 there was no Ordinance or restrictions to follow. In 1997 a Mineral Extraction Ordinance was created. Crisman Sand acquired an adjacent property in 2017. At that time a Letter of Determination was completed and recorded that states they may operate unregulated up to 503 feet from the County Road. Now, with moving locations on their property, they are moving into a regulated area. This mean they will now have to operate in this area under the requirements of the Ordinance. Nothing has changed other than they are moving beyond the artificially created 503-foot line. If approved, Crisman will be required to go through the permit process. A process that is quite stringent and has a lot of boxes that must be checked to operate. Proper documentation is required; storm water review is required; landscape rehabilitation plan is required, and bond and surety are required. At this time, the petitioner is requesting to be able to continue their business, on their property, but in a different location on their property and they will adhere to the Ordinance requirements.

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.

Dr. Michael Spence, 754 N 400 E, adjacent landowner, states he is opposed noting the buffer trees have been removed, erosion is happening, noise has worsened, significant dust is being created, as well as concerns with biohazards, large trucks, traffic, hours of operation, and property values.

Mr. Roger Smith, 764 N 400 E, states there is more going on at the site then just sand mining, and water and sediment levels are a concern. He is opposed.

Mr. John Davies, 773 N 400 E, notes considerable concerns with the environment and land values. He is opposed.

Attorney Terry Heistand, 117 Broadway, Chesterton, IN representing Dr. Michael and Mrs. Ann Spence and Mr. David Harrington. Attorney Heistand states this company impacts the neighbors heavily. There is an abuse of the sand mine use in that additional operations are taking place at this location. Photos were provided to Members to show the removal of trees that has already happened. A list of questions was shared with both Attorney Leeth and the Members for their review. His clients are opposed.

Mr. David Harrington, 726 N 400 E, adjacent property owner, states he purchased an additional five acres of land as a buffer but now they are going around the buffer and that is an issue. He is opposed.

Mr. John Franiak, 704 N 400 E, states he has no objection to the sand mining.

Mr. James Reed, 779 N 400 E, states this is more than a sand mine and should be looked into further. He is opposed.

Mr. Robert Pruzak, 782 N 400 E, states he has no issue with the sand mining but does have issue with the other business that is going on there. He is opposed.

Ms. Kathy Franiak, 704 N 400 E, states Crisman Sand has been a good neighbor and she has no objection to the request.

Mr. Morris Weigen, 737 N 400 E, questioned liquids being dumped on the Crisman property, and states operations are already going on in the new location as well as a traffic pattern. He would like the entrance to the Crisman property moved as well.

Ms. Ann Spence, 744 N 400 E, states the company trucks are dangerous and noise is unbearable.

Attorney Leeth's rebuttal:

- The 84-acre parcel also accepts clean fill approved by IDEM. It is not contaminated and is not garbage. We can do this, because IDEM tell us we can.
- The only thing being considered or requested this evening is being able to continue the sand mining use but in a different spot on our own land.

- Hours of operation are 7:00 a.m. to 3:00 p.m. Monday through Friday, generally. There are times when a construction project may require our materials outside of those hours, but this is not daily.
- The permit application requires that we not adversely affect the soils or water tables. Our soil report shows we have sand all the way to 60 feet.
- The average number of trucks and trip in and out varies per day and is based on the projects happening.
- Crisman Sand has been operating for 32 years unregulated and without restrictions. With this approval, the permit process we have to go through will now require restrictions and that we operate under regulations.
- With regards to traffic, the road and highway have been longer than us and we have been operating from this site for 32 years.
- Liquids being dumped are from contractors and are hydro-excavation aka mud.
- We are only focusing on the approximate 12.5 acres.
- Crisman does not have their own trucks. Any trucks coming or going are the customers.
- Excavation happens 7 a.m. to 3 p.m. There is still staff on site, but the mining is not taking place at all hours. There may contractors that work water main breaks, mill work jobs, etc. that have to empty tankers and trucks when necessary.
- We were not required to go through this process for the original area when purchased in 2017. Crisman Sand has followed the laws for 32 years and will continue to do so.
- The County wants us to have one entrance/exit to the property and that is what we have. Any issues with our entrance would have to go to the Traffic & Safety Board.

Attorney Scott McClure advised that the petitioner is here tonight to address only the 12.5-acre parcel. Because part of the 12.5 acres falls into a regulated area, the permit process is required, and the permit process will dictate a lot. The regulation only applies to the portion of the property being mined within the regulated area. The unregulated areas may continue as is. IDEM controls the clean fill portion of the business. Staff has some questions regarding the grinding of concrete and will be following up with Attorney Leeth.

Q: Is the petitioner willing to recreate the original mining area?

A: We can't make it look like a park, but we will make it better than it is.

Q: Do customers have all access to the business property at all times?

A: No. Only certain companies that have dumping privileges during off hours.

Q: Is the off-hour dumping inspected?

A: Yes, in the morning and it is only dumped in a controlled area with video surveillance so we are aware of it.

Q: Hydro-excavation is considered clean fill?

A: Yes, under IDEM's definition.

Q: Is the original mining spot done with mining?

A: Not yet but will be soon and then we will move to the new proposed location.

Attorney Scott McClure advised that he and staff would like to meet with the petitioner and council regarding specifically what the petitioner is willing to do with the original mining area and property with regards to plantings, etc. and would also like clarification on the crushing of concrete and the selling of the crushed concrete as it relates to the sand mining business. Anything specific to the new proposed parcel is all clearly written in the Ordinance and through the permit process and the petitioner is required to adhere to the requirements.

Motion: Marvin Brickner made a motion to continue UV-20-0012 for one (1) month to allow Attorney McClure, Staff and Attorney Leeth to meet regarding the outstanding issues mention by Attorney McClure. Michael Young seconded the motion. A voice vote was taken and unanimously carried 4-0. *Robert Thompson advised this matter will be continued to the August 19, 2020; 5:30 p.m. regularly scheduled Board of Zoning Appeals meeting.*

UV-20-0020 – Ronald Kasperek, 440 West U.S. Highway 6, Valparaiso, IN in Portage Township in the CM, Moderate Intensity Commercial District. The petitioner is seeking an extension of a Use Variance allowing the sales, service and outside storage of trailers, truck caps, and golf carts. Mr. Ronald Kasperek presented. There have been no changes to the business and no complaints.

Motion: Marvin Brickner made a motion to approve UV-20-0020 for five (5) years with the same stipulations as previously granted. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-20-0021 – Daniel J. Overton, Sr., 699 South State Road 2, Hebron, IN in Boone Township in the R1, Low Density Single-family Residential District. The petitioner is seeking an extension of a Use Variance to allow a private auto repair/body shop out of an existing pole barn. Mr. Daniel Overton, Sr. presented. There have been no changes to the business and no complaints.

Motion: Marvin Brickner made a motion to approve UV-20-0021 for five (5) years with the same stipulations as previously granted. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-20-0022 – David & Julie Naillieux, 866 North Calumet Avenue, Chesterton, IN in Liberty Township in the RR, Rural Residential District. The petitioner is seeking an extension of a Use Variance to allow an excavating business with outside storage. There have been no changes and they took advantage of the COVID-19 shut down to clean up the space.

Motion: Marvin Brickner made a motion to approve UV-20-0022 for five (5) years with the same stipulations as previously granted. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-20-0030 – Rex & Janet Veach, 716 West 1014 South, Hebron, IN in Boone Township in the A1, General Agriculture District. The petitioner is seeking a Use Variance to allow a temporary mobile home on property to be used to care for an elderly mother. Ms. Janet Veach presented. She would like to install a double-wide mobile home trailer on her property for her elderly mother to live in and it will be removed when her mother is no longer living there. The property is 11.4 acres, has a private drive, and they have been approved to tap into the existing septic and well systems.

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: This will be for this family member and only this family member, correct?

A: Yes.

Q: Will there be a garage?

A: No.

Q: Will it have skirting around the bottom?

A: Yes.

Q: And there is no question that you understand the unit must be removed when your elderly mother is no longer living in the mobile home.

A: No question. We understand and agree.

Q: Why is your mother not able to move into your home with you?

A: There is only one bedroom on the main floor and our own health issue require us to remain on the main floor.

C: Robert Thompson advised, as proposed, the mobile home will be a temporary manufactured home with steel rails underneath. There will be temporary foundation and the unit will be tied down as a mobile temporary home.

Motion: Marvin Brickner made a motion to approve UV-20-0030 as presented for one (1) year with the condition that when the petitioner's elderly mother is no longer living in the mobile home the unit will be removed within six (6) months. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the July 15, 2020 Board of Zoning Appeals meeting adjourned at 8:25 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco, Assistant Director