



**PORTER COUNTY BOARD OF ZONING APPEALS
HEARING OFFICER
August 15, 2019 - MEETING MINUTES**

LOCATION: County Administrative Center, Ste 205 **TIME:** 1:00 p.m.
155 Indiana Avenue, Valparaiso IN

MEMBERS IN ATTENDANCE

Rick Burns, Hearing Officer
Kristy Marasco, Assistant Director
Kelly Cadwell, Absent
Monica Gee

Minutes: Rick Burns moved to approve minutes from the June 27, 2019 meeting.

Correspondence: Received eight letters regarding 99 Jensen Drive.

OLD BUSINESS

Case: DV-19-0036

Applicant: Aaron Strickler

Location: 662 East 950 North, Westville Jackson Township

Zoning: RR Rural Residential

Acres: 8.12 +/-

Request: To allow the height of an accessory structure to exceed the maximum allowed from 20' to 26'6"

Discussion: Rick Burns explained the applicant has withdrawn his application.

Motion: Rick Burns moved to deny Case DV-19-0036.

NEW BUSINESS

Case: DV-19-0049

Applicant: Keith Zelenika c/o B & B Roofing & Construction

Location: 1148 North 325 East, Chesterton, Jackson Township

Zoning: RR, Rural Residential District

Acres: 50 +/-

Request: To allow an accessory structure (60X36) with a lean to (12X24) to be placed in the front yard and to exceed the height from the maximum allowed 20' to 25'.9".

Arlin Hochstetler of B & B Roofing presented on behalf of the applicant. The accessory building is requested for storage of vehicles and a workout room. At a later date he intends to build a pool.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: The height is for aesthetics and to be able to fit a 14' door for a camper. There is an existing building. The property owner is not present. The property owner has signed a commitment letter. The house has been empty but during the summer his daughter will be living there. The property owner will be moving into the house once this requested building is finished. He could use scissor trusts but wants a cathedral ceiling. The existing barn is 14'. The requested 25'.9" does not include the copula.

This case was continued to the end of the meeting. The Arlin Hochstetler will contact the property owner and ask exact height and if the copula is necessary.

Case: DV-19-0050

Applicant: Jack C. Connors, Jr.

Location: 407 East 1000 North, Chesterton, Jackson Township

Zoning: RR, Rural Residential District

Acres: 1.0 +/-

Request: To exceed the maximum square footage of all accessory structures (two percent (2%) of the square footage of the lot), for a proposed (40' X 48') pole barn.

Jack Connors – 407 East 1000 North, Chesterton, presented. He has two boats and three cars. He needs this size to fit them all.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: There are no other out buildings on his property. One boat on a trailer is about 36'. This will be for storage only.

Motion: Rick Burns moved to approve Case DV-19-0050. The approval is contingent on no business being run out of the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense.

Case: SE-19-0051

Applicant: Michael A. Zmuda

Location: 589 Elk Court, Westville, Jackson Township

Zoning: RR, Rural Residential District

Acres: 1.20 +/-

Request: To allow an accessory structure to be placed in the front yard and allow reduction in the front yard setback from the required 35' to be at 10'; for a proposed (20'x24') detached storage building.

Michael A. Zmuda - 589 Elk Court, Westville, presented. On the east side of his lot there is a road platted that is non-existent and makes this side frontage. Because of topography and septic field, this is the only spot an accessory structure could be placed. The Home Owner's Association has already approved the setback.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: Rick Burns asked to see a drawing indicating the septic field location. Michael explained the area he wants to keep available should he need to add to his septic field.

Motion: Rick Burns moved to approve Case DV-19-0051. The approval is contingent on no business being run out of the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense.

Case: DV-19-0052

Applicant: Bennetts Storage Inc. c/o Atty Todd Leeth

Location: 768 North 400 West, Valparaiso, Portage Township

Zoning: CH, High Intensity Commercial District

Acres: 2.0 +/-

Request: To allow for a twenty (20') separation between storage facilities.

Todd Leeth presented on behalf of the applicant. Bennetts also owns the property to the south. They have acquired this parcel that is long and narrow. The proposed buildings will match the existing buildings. They will provide screening. The request leaves enough room between buildings for access.

Public Hearing:

Ules Stidam - 772 North McCool. He is not against the buildings being closer. He is concerned with the drainage and existing retention.

Randy Polk - Immanuel Baptist Church. He doesn't know why the code is the way it is. They have cut down at least 30 trees. When it rains, the drainage floods behind the church. The addition of these buildings will increase the flooding. He does not want their drainage coming onto the church property.

Ules Stidam – His concern is there isn't proper retention. They are supposed to be rebuilding the drainage system.

Randy Polk – Immanuel Baptist Church – He showed where the trees were located that have been cut down.

Todd Leeth explained the existing property was acquired by Bennett. They did not develop it. This was done before the current UDO. The request today is done by the current standards. There is a landscape plan. To do the landscape they are requesting the 20' between buildings. They are going to have new detention. The site plan is being engineered according to today's standards. The 50' standard applies to this zoning standard. It possibly is because of fire protection. He believes it is an aesthetic standard.

Ules Stidham – The present home on the property is still there. When will it be taken down? Todd Leeth is not sure what the time table is.

Randy Polk – He understands the old units were done before the current UDO. But they are saying the buildings will be the same and the retention pond will be in the front. The retention pond will not be big enough to keep runoff from coming onto the church property.

Todd Leeth replied this will be done per Mike Novotney's approval. The proposed retention pond will be twice as big as the existing one.

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: Rick Burns restated that this project will have to pass current standards. Mike Novotney and staff are excellent at looking into drainage issues.

Motion: Rick Burns moved to approve Case DV-19-0052 contingent on the County Engineer's approval of the two concerns from neighboring residents. Applicant is to set a date within two (2) weeks when the existing house on the property will be removed.

Case: DV-19-0053

Applicant: David Martin

Location: 353 West 500 South, Valparaiso, Porter Township

Zoning: A1, General Agriculture District

Acres: 1.5 +/-

Request: To allow for an accessory structure to not closely resemble the finish and façade materials used on the primary structure and to allow reduction in the side yard setback from the required 30' to be at 10'; for a proposed (24'x36') pole barn.

David Martin - 353 West 500 South, Valparaiso, presented. This pole barn will be used for personal storage.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: Rick Burns asked why the color will not match the house. David Martin explained he didn't know it was part of the regulations. When looking at buildings he liked the grey color.

Motion: Rick Burns moved to approve Case DV-19-0053 in regard to the setback at 10'. Rick Burns moved to deny Case DV-19-0053 in regard to the color not matching the primary structure. The approval is contingent on no business being run out of the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense.

Case: DV-19-0054

Applicant: Robert Hill

Location: 523 South 800 West, Hebron, Porter Township

Zoning: A1, General Agriculture District

Acres: 10 +/-

Request: To allow for a proposed two (2) lot administrative subdivision to vary from the following:

- Minimum lot area to be less than the required 10 acres
- Pre-existing accessory structures:
 - Reduction in front and side yard setback lines
 - Remain on lot prior to the primary structure being constructed
 - Exceed the maximum number (up to three (3) accessory structures permitted on a lot)
 - Exceed the maximum floor area (two percent (2%) of the square footage of the lot)

Tony Strickland presented on behalf of applicant. He is the surveyor. They are dividing the parcel into two parcels. There is an existing house. Mr. Hill would like to build his retirement home and not displace the tenants in the existing house.

Public Hearing:

The resident of 523 South 800 West (Piterelli?) – He has lived here for over 20 years. He gave the history of the existing accessory structures. They will do improvements to the home. This is Mr. Hill's intention. They will have first right to purchase should Mr. Hill decide to sell.

Public Hearing:

Seeing no one else wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: This is unique in that there will be nine out buildings without the house. The small shed next to the garage is leaning. This will be torn down. Rick Burns asked about the long-term plans for these buildings. If the new home is built back, all of these will be in the front yard.

523 South 800 West (Piterelli) – he understands the original farm house will be part of his purchase. Mr. Hill will build a small retirement home in the back of the property and will have four out buildings. The existing house will have the house and two out buildings. One will be removed. The request to leave the buildings is to keep the barn swallows on the property. The buildings are all original to the property except for one. There is an understanding to maintain the integrity of the structures for the history of the property.

The plat will have to show the distance between the driveways. The plat shows a future pole barn. This will be an issue if the current buildings all remain. Rick Burns stated he is going to continue this case. Mr. Hill should be present if possible. Commitments will have to be made on his behalf to maintain the existing buildings. If one is made unsafe by weather or fire, it will have to be removed and not replaced. A proposed pole barn will also be an issue. Rick Burns has no problem with the division but there could be a possibility of needing a variance with the driveway.

Motion: Rick Burns moved to continue Case DV-19-0054 to the next meeting. The plat should show the distance between the driveways. Mr. Hill should be present if possible. Commitments will have to be made.

Case: DV-19-0055

Applicant: William Hilton

Location: 649 East US Highway 6, Westville, Jackson Township

Zoning: RR, Rural Residential District

Acres: 1.4 +/-

Request: To allow reduction in the rear yard setback from the required 15' to be at 12' on an existing legal nonconforming accessory structure and to exceed the maximum floor area of two percent (2%) of the square footage of the lot, for the proposed addition (24'x30') to the pole barn.

William Hilton – 649 East US Highway 6, Westville, presented. This will be an addition to an existing pole barn. The existing building is legal nonconforming.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Motion: Rick Burns moved to approve Case DV-19-0055 contingent on no business being run out of the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense.

Case: DV-19-0057

Applicant: Eddie Wineland

Location: 841 North 625 East, Westville, Jackson Township

Zoning: RR, Rural Residential District

Acres: 1.5 +/-

Request: To allow the maximum floor area to exceed the two percent (2%) of the square footage of the lot, for a proposed (40'x60') pole barn.

Eddie Wineland – 841 North 625 East, Westville, presented. This building will be used for personal storage.

Public Hearing:

Seeing no one wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: He has a permit to build a garage. Rick Burns expressed his concern that this is a large building request. There was discussion regarding making the building smaller with an awning.

Motion: Rick Burns moved to approve Case DV-19-0057 with a 30' x 50' building, 1,500 sq ft, no awning. And also contingent on no business being run out of the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense.

Case: DV-19-0058

Applicant: Melissa Ganser

Location: 99 East Jensen Drive, Valparaiso, Liberty Township

Zoning: RL, Residential Lake District

Acres: .33 +/-

Request: To allow the maximum floor area to exceed the two percent (2%) of the square footage of the lot, for a proposed (40'x30') pole barn.

Melissa Ganser, 99 East Jensen Drive, Valparaiso, presented. Also present was Jim Bucher, 99 East Jensen Drive. They have an existing shed and want to add a pole barn. If they don't get the variance, they will have to take down the shed. This will be used for cars and snow plowing equipment. It will also be used for working while they are remodeling.

Public Hearing:

Tim Cole – 845 N. Calumet Avenue. He is not in favor of this project. This is four times the allowable limit. Already there have been quite a number of trees removed. He is concerned about the septic field and where it could be relocated or added to if necessary. There have been violations on this project. There is a bald eagle nest near the property. The removal of the trees is endangering this nest. There are wetlands next to the property.

Adam Sworden, attorney on behalf of William and Janet Williams, 97 Scott Drive. Statutory requirement is ten-day notice. His clients were not notified timely. Not all required property owners were notified. The sign was not up in a timely manner. When he tried to obtain the BZA rules he was given an outdated copy. The copy on line is outdated. The proposed structure is on two lots. The proposed structure does not match the house. The property is to the west of a wetlands. They are only 116' from the wetland delineation. He showed over 11,000 square feet that has been disturbed. Debris is being dumped on county property. No survey was done and filed with the application. He recommends if passed there be conditions. This is not a hardship. His clients' would like to be allowed to pull a fence permit, not a 4' fence because someone is going to construe these as front yards. There is plenty of space to put up screening if approved.

Walt Breitingner, 252 Park Avenue, Valparaiso. He owns property directly across the lake from this property and has an interest in other property in the area. This area is a treasurer and should be protected. He is opposed to the pole barn because there will be much more water runoff. There is biodiversity in this neighborhood. This is because the area has been protected. The property values will be hurt by adding pole barns.

Donald Frame – 1033 North 400 East, Chesterton. He is director of Izsak Walton. The Endangered Species Act is very specific what can go on in an area where there are bald eagles. This proposed building is large and could impact the bald eagles.

Janet Williams – 97 Scott Drive. She showed the location of the eagles. They have been there for two years.

Warren Webb – 608 North 90 East. The eagles are on his property. When neighbors cut down trees it affects the whole area. It also jeopardizes trees on neighbor's property. The use of the barn proposed is rumored that a sucker truck will be parked in there. The frost laws will affect this. The loss of canopies also affects the wetlands.

Bonnie Swarner - 645 North 70 East. She is concerned about the ecology and water quality. There should be stricter controls.

Mark Shelhart – 5401 Garden Gateway. Keep in mind this is zoned Lake Residential. This is special and should remain that way.

Vicki Norlington – 95 Jensen Drive. The roads are all dirt roads, private and maintained by the neighbors. She does not want to have a snow plow come down their road. They use snow blowers to clear the street. The applicant has mentioned he might want to run a business out of the pole barn.

Jim Bucher responded. County Staff inspected their silt fence and it was ok. Rick Burns stated he has looked at it and soil was going under the fence. He was told this will be fixed. Jim Bucher explained he has a great job and has no reason to run a business out of the barn. He does not intend to drive his hydrovac truck to this property. The house is wood.

It has to be pressure washed. They picked the color for the barn as a color they want to paint their house. They have three lots. The house is on Lot 8. The septic is on Lot 17. They purchased Lot 7 also. Building the barn is where he wants to put vehicles and work on remodeling the house.

IDEM has been out. He has discussed with them and Mike Haller that this is the best form of erosion control. He was told there were no issues. They have cleared out trees that could be a potential hazard. They had to be removed for protection.

They just had a septic system inspection. He has been told they would never be able to rebuild their septic and they have been told the neighbors don't have a space to rebuild either.

Adam Sworden – There is no erosion control on the east side of Lot 17 or on the north side of Lot 7.

Seeing no one else wishing to address the Board, Rick Burns declared the Public Hearing closed.

Discussion: Rick Burns talked about a berm that was built out of trees and mud when the trees were cut down. This is not proper and allows dirt to wash into the wetlands. The berm was built with the grade going up. Now the drainage is coming down on a dirt road which is flooding and it is making the area worse. Someone has put a pile of gravel down to hold back some of the drainage. The pole barn will be a negative impact on the neighborhood. Rick says he knows if there are problems in the future with the septic there is no option. The bald eagles will be affected.

Melissa Ganser asked if they took the shed down could they put up the pole barn. Kristy Marasco replied they are allowed 1,300 square feet of accessory structures. Rick Burns stated it has to match the house.

Motion: Rick Burns moved to deny Case DV-19-0058 .

Rick Burns re-called:

Case: DV-19-0049

Applicant: Keith Zelenika c/o B & B Roofing & Construction

Location: 1148 North 325 East, Chesterton, Jackson Township

Zoning: RR, Rural Residential District

Acres: 50 +/-

Request: To allow an accessory structure (60X36) with a lean to (12X24) to be placed in the front yard and to exceed the height from the maximum allowed 20' to 25'.9".

Arlan Hostettler presented. He is the contractor. His business pulls all of the permits for their customers so the customer is not liable. They offer to speak on behalf of their customers. The existing accessory building is approximately 18' to 25'. The 25'9" is correct with an additional 3' for the copula. The customer says if it comes down to it leave the copula off. He just does not want it to look too much like a pole barn. He wants it to be aesthetically pleasing. The proposed building will be used for personal storage and parking of vehicles. The property owner has signed a commitment letter stating there will not be a business in the building.

Motion: Rick Burns moved to approve Case DV-19-0049 contingent on no business being in the building. Should a business be found to be located in the building, the building may be removed by the County at the owner's expense. With the copula the building will be 28'9".

There being no further business, the meeting adjourned.

Rick Burns, Hearing Officer

Kristy Marasco, Assistant Director