



**Porter County Board of Zoning Appeals
Regular Meeting Minutes
August 19, 2020**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, August 19, 2020, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

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

MINUTES:

Michael Young made a motion to approve the July 15, 2020 minutes as submitted. Luther Williams 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-15-0017 – (WITHDREW) - Frank Jury, II, 235 West U.S. Highway 30, Valparaiso, IN in Center Township in the R1, Low Density Single-Family Residential District. The petitioner is terminating the Use Variance allowing the operation of a law office to operate from the residence.

Motion: Michael Young made a motion to deny UV-15-0017. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 3-0.

UV-17-0048 – (WITHDREW) - Jonathan Kraft, 27 South 117 East, Valparaiso, IN in Morgan Township in the R1, Low Density Single-family Residential District. The petitioner is terminating the Use Variance allowing a Federal License to legally transfer the ownership of firearms from the residence.

Motion: Luther Williams made a motion to deny UV-17-0048. Michael Young seconded the motion. A voice vote was taken and unanimously carried 3-0.

UV-20-0040 – Darrell Sowles, 242 West 900 South, Hebron, IN in Boone Township in the A1, General Agricultural District. The petitioner is seeking to continue a Use Variance to allow the operation of a well drilling business with outside storage. Mr. Darrell Sowles presented. Mr. Sowles notes he has cleaned up the property a lot but understands he is still not exactly where the Members wanted him to be at this time. He contributes this to work working 10 to 12-hour days in addition to moving stuff off the property and cleaning it up. Discussion took place.

Motion: Acknowledging Mr. Sowles’ efforts toward cleaning the property up, Michael Young made a motion to continue UV-20-0040 for an additional thirty (30) days. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 3-0.

UV-20-0012 – (CONTINUED from July 15, 2020) – (Member Brian Damitz arrived at this time.) 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. Attorney Leeth advised that the petitioner has started putting together the mineral extraction application. Attorney Leeth showed a series of videos and photos of the property. The petitioner will commit to covering up the soil and vegetate once the active mine is closed and have a future plan drawing to that effect.

Q: What will happen in or with the wooded area?

A: There is currently no plan to mine there.

Q: How close will the mining be to County Road 400 East?

A: We do not have the exact distance but will plan to adhere to the Ordinance requirements. As well, there is existing screening with trees in this area and the petitioner plans to add more trees to the north and south to either blend in and leave or create a 5-foot berm to help with the visual aspect.

Q: What is the depth of the pond on the property?

A: It varies from 7 feet to 12 or 15 feet. The elevations are different.

Q: What will this do the water tables?

A: The water tables and aquifers are abundant.

Q: What is the plan for crushing concrete?

A: That is not included in this plan and granting this variance will not allow to crush. That is a separate issue.

Q: What about dust control?

A: The petitioner recently purchased a water tanker truck with the intent to spray the property to keep the dust down within the property as much as possible.

Q: How long is the existing mine expected to remain open.

A: 10 to 15 years. It is really determined by the number of construction projects going on and how many loads go out each day.

Q: What does adding this additional parcel do to the plans?

A: We estimate another year or two of sand from this area and the intent is to blend the whole property and dig throughout a process.

President Cook recognized a member of the public that wished to speak.

Attorney Terry Heistand, 117 Broadway, Chesterton, IN representing Dr. Michael and Mrs. Ann Spence and Mr. David Harrington. Attorney Heistand states his clients are still awaiting answers to their questions such as: Is the concrete crushing ending? What are the hours of operation? What is being planned for the slopes in the property on the north where the property abuts the Spence property? How is the site being secured from the neighbors? What assurance is being given that the standards are implemented for the entire property and not just the regulated area? Attorney Todd Leeth: This petition does not give us the right to crush concrete and/or make gravel. We are not going to continue with crushing until Porter County and Crisman Sand are clear on if it is allowed and we have already suspended doing that. The normal hours of operation are Monday through Friday 7:00 a.m. to 3:00 p.m. and we offer emergency services as needed and Saturday hours if construction projects are being done and services are necessary. We commit to seeking a permit for the regulated area and will apply and conditions to that as the Board sees necessary. We cannot fence 84+ acres. We have gates for vehicles and there is an easement and tree line between us and the neighbors.

Motion: Michael Young made a motion to approve UV-20-0012 with the following conditions:

- To include the future site plan as presented;
- Full compliance for the entire property;
- No crushing of material;
- Dust control as discussed;
- Regular hours of operation Monday through Friday 7:00 a.m. to 3:00 p.m. but also allowing emergency services and special exceptions;
- A list of customers that come in off hours is submitted; and
- New trees are planted as discussed.

Luther Williams seconded the motion. A ballot vote was taken and passed with 3 votes and 1 abstain (Damitz).

NEW BUSINESS:

UV-20-0039 - Louis Jr. & Diana Asher, c/o Mike Bieniek, AICP, 264 West Division Road, Valparaiso, IN in Porter Township in the R1, Low Density Single-family Residential District. The petitioner is requesting a Use Variance to permit a wireless telecommunication facility. Mr. Mike Bieniek, Mr. Andrew Fowler, and Mr. Steven Simpkins presented. The petitioner is proposing a 195-foot monopole cellular tower to be located at 264 West Division Road. The parcel is zoned R1 and is 16.4 acres. The telecom services would like to lease a 100-foot by 100 foot plot of land on the southwest corner of the overall 16.4 acres. This location will put the tower 985 feet from the nearest home or structure which is 1.98 miles of distance. This area is lacking in telecommunication services and a more robust network is critical. AT&T expects to eventually have the Federal Government's 1st Net equipment on this proposed tower for first responders. The tower will be built to carry a total of four antennas. Fall zone letter was provided noting the proposed tower is in compliance.

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.

Kristy Marasco advised this project will have to go through the DRC process as well.

Motion: Brian Damitz made a motion to approve UV-20-0039 as presented. Michael Young seconded the motion. A ballot vote was taken and unanimously carried 4-0.

UV-20-0041 – Brooke Scherrbaum, 69 West 900 South, Kouts, IN in Pleasant Township in the A1, General Agriculture District. The petitioner is seeking a Use Variance to continue a dog grooming business in an agriculture zoned district. Ms. Brooke Scherrbaum presented. There have been no changes and she would like to continue her dog grooming business. Kristy Marasco noted 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: Michael Young made a motion to approve UV-20-0041 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-20-0042 – Matthew & Darcy Knez, 413 East State Road 2, Valparaiso, IN in Washington Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow the operation of a business (All Square Roofing) in a rural residential zoned district. Mr. Matt Knez, 3497 W. Lakeshore Drive, Crown Point, IN presented. Mr. Knez notes there have been no changes to his business and he would like to continue to operate his roofing business at this location, 413 East State Road 2, Valparaiso, IN.

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. Mitch Watson, 424 E State Road 2, states he submitted written comments to the Board prior to the meeting. The variance application was not totally forthcoming, and this business has changed the character of the property and the neighborhood. There are many employees, 8-15 trucks every day, increase in traffic, off-loading on State Road 2 and blocking traffic, signage in place, and the property is very unsightly. He is opposed.

Mr. Alexander Cribley, 435 E State Road 2, states issues with the hours of operation, the noise, the amount of construction material and debris, and traffic flow management. He is opposed.

Mr. Don Wilson, 419 E State Road 2, states issues with noise, number of trailers, trash, pistol blasting, and number of vehicles. He is opposed.

Mr. Jim Leedy, 421 E State Road 2, agrees with all the previous comments. He is opposed.

Ms. Melinda Slagle, 363 N 400 E, states issues with trucks in and out, four-wheeling on the property, diesel trucks running early in the morning and late at night, unsafe driving, trash, mud, piles of debris, burning of materials, lights on late at night, people hanging out late at night, reckless shooting of firearms, an addition being built to the garage, and the property being an overall nuisance to the neighbors. She is opposed.

Ms. Wanda Wilson, 419 E State Road 2, is opposed.

Ms. Ann Watson, states issues with the petitioner's large trucks using other neighbor's driveways. She is opposed.

Kristy Marasco advised Ms. Betty Slagle, sent an email correspondence that the members received in their packets noting she is opposed.

Mr. Knez's rebuttal:

- Mr. Knez apologized to the neighbors stating he was not aware of all the goings on.
- He did learn of the use of firearms at the property and put a stop to it immediately.
- He will clean up the area and remove the signage.

Mr. Knez notes that he just closed on the purchase of a building in Burns Harbor, IN that he plans to relocate this business to once everything is approved through Burns Harbor. He has some renovations to be done to the building as well. He is asking to be able to continue his business from its current location until he can move to the new location and then he will maintain the property as a residence.

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

Q: How many employees do you have?

A: 6. Plus there are subcontractors in and out throughout the day.

Q: Are their materials on site?

A: Overflow materials right now.

Q: How many vehicles are on site?

A: I own several plus the six employees. Approximately 20 total, including the trailers.

Q: What are the hours of operation?

A: 7:00 a.m. to 6:00 p.m. I stay late sometimes to do paperwork.

Q: Does anyone live on site?

A: No.

Q: How long before you think you will move to the Burns Harbor location?

A: I plan to submit the plans in one month and hope to move in six.

Motion: Michael Young made a motion to approve UV-20-0042 for 90 days. During this 90-day time period the petitioner may not have signage, may not block driveways or roadways, may not use neighbor's driveways for any reason, may only have six maximum employees on site, may not store materials on site, may only have a maximum of 10 vehicles at any one time on site, the property must be cleaned up, no use of firearms is permitted, and the hours of operation shall be 7:00 a.m. to 6:00 p.m. The petitioner will return before this Board at the November 18, 2020 meeting with an update on how the new building renovation and moving plans are coming along as well to confirm that he is adhering to the conditions set forth in this motion. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the August 19, 2020 Board of Zoning Appeals meeting adjourned at 7:46 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco, Assistant Director