



**Porter County Board of Zoning Appeals
Regular Meeting Minutes
September 19, 2018**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, September 19, 2018, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

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

MINTUES:

Marvin Brickner made a motion to approve the August 15, 2018 minutes as submitted. Luther Williams seconded the motion. A voice vote was taken and unanimously carried.

COMMUNICATION:

Attorney Scott McClure advised that with having three members present a unanimous vote is needed. If a unanimous vote is not received the Case will automatically be heard at the next regular meeting.

CORRESPONDENCE:

None.

OLD BUSINESS:

UV-13-0038 – Michael Stephens, 972 North County Line Road, Westville, in Jackson Township in the RR, Rural Residential District. Motion to deny; petitioner is no longer in need of the Use Variance permitted a kennel for service dogs.

Motion: Luther Williams made a motion to deny UV-13-0038. Marvin Brickner seconded the motion. A voice vote was taken and unanimously carried 3-0.

SE-18-0022 – Triad Development, LLC, 250 West between NCY Railroad and Grand Trunk Railroad, Valparaiso, in Center Township in the I2, General Industrial District. The petitioner is seeking a Special Exception to allow outdoor storage of company vehicles for a proposed utility company. Case continued from the August 15, 2018 meeting. Mr. Christos Tsahas and Mr. Joseph Krysia presented. The petitioner has been made aware that there is no sewer line close to the property, so they will have to have septic. They provided a site plan including 60 parking spaces and a 2,000-square-foot area for septic. Soil testing results are not back yet. There is also no water line close; they will have to have a well.

Attorney Scott McClure advised that being in the I2 zone requires sanitary hook-up or a variance thereof. The same applies for water. A Special Exception is needed to have well and septic. Outdoor storage is the only thing that may be considered tonight as nothing else has been properly advertised. It is strongly recommended that the petitioner seek local counsel to advise him through the legal process of this case and all it requires.

Motion: Marvin Brickner made a motion to table SE-18-0022 until Staff feels comfortable that the petitioner has everything needed to present. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 3-0.

NEW BUSINESS:

UV-18-0052 – D&A Real Estate LLC, c/o Todd A. Leeth, 5520 U.S. Highway 6, Portage, in Portage Township in the R1, Low Density Single-family Residential District. The petitioner is seeking a Use Variance to allow a mini-warehouse self-storage business. Attorney Todd Leeth presented. Mr. Scott Civanich with Duneland Group was also present. The property located at 5520 U.S. Highway 6 is 7 acres in size and currently zoned R1, Low Density Single-family Residential. The petitioner is seeing a Use Variance to allow mini-warehouse self-storage units. The City of Portage surrounds the parcel. The parcel is 231 feet wide which makes it long and narrow and too large for one single-family home. This is an in-fill development. The parcel has been vacant for years because, in our opinion, it does not fit its zoning classification. U.S. Highway 6 has 22,000 vehicles pass this site daily which does not fit that of a single-family home, but the parcel should not be held hostage due to the zoning. Self-storage is a good fit for this parcel; a low use with low traffic. As proposed the storage units will be interiorly focused, development, landscaping and storm water plans will be properly submitted. This parcel also lies in an overlay district that will enhance the requirements. All around the property are businesses. The site plan has a detention pond on the north end and three long and narrow buildings. Two are single sided with no exterior overhead doors visible from the outside. The middle building will have two-sided access but again it won't be visible from a public view. Landscaping will dense on the outside of the parcel with trees, bushes and shrubs.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. 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. Richard Hawkins, 5507 Batson Road, Portage, states he is concerned with increased flooding and decreased property values. He is opposed.

Ms. Kim Novak, 5527 Birch Avenue, Portage, questioned if the new owners would be responsible for and commit to maintaining the detention pond and the property as a whole as it has not been maintained for years. Also, what will they do to discourage crime? She is opposed.

Mr. Vic Levan, 3381 Anthony Drive, Portage, states this is the second time for this type of project at this property. In 2015, the Mayor's office was represented, and they were opposed. The property is always wet. We want out home values upheld, and this will negatively affect them. Has an appraisal been done? What will be done to guarantee our home values? He is opposed.

Mr. Jon Cooros, 5559 Birch Avenue, Portage, states his concerns are with security of the area and the neighboring home values being affected. He is opposed.

Ms. Rose Beaudry, 5495 Batson Avenue, questioned what is planned for permeable area versus non-permeable area. What is the size of the pond? What are the plans to keep it from being stagnant? Can Portage police and fire handle this added area? What materials will the building be constructed of?

Ms. Sue Lynch, 2647 Vivian Street, Portage, questioned if there will be any protection around the pond such as a fence? Upon contacting the City of Portage, they stated they were unaware of any proposed project. The City of Portage should be included in these proceedings.

Ms. Jeanette Nixon, 5478 Batson Avenue, Portage questioned what happens with the garbage people leave behind. Maintenance and cleanliness are huge concerns.

Attorney Scott McClure advised that notice was sent out in compliance with State statute. The City of Portage does not own any property around this parcel, therefore, they would not have been notified as part of the process.

Attorney Leeth's rebuttal:

- The concept plan for the property shows the detention pond at the north end, but where the final plans show it is dictated by the storm water requirements. If it stays on the north end, it then provides a more than adequate buffer to the residential area.
- We believe this property will not be developed as residential. It is a long and narrow piece of property with 231 feet of frontage on U.S. Highway 6 with 22,000 vehicles passing daily. We believe it will be commercial at some time and our proposed use is very minimal and a low impact project. An infill project that is responsible.
- The north and south ends of the property will be fenced and down facing lighting will be installed. A clean and secure environment is necessary to the businesses' success.
- Maintenance of the property will be far better than it is currently. If the project is denied it will remain poor. If the project is approved, it will get better and someone will be held accountable to keep it that way.
- Having the detention pond will help the flooding issue of the entire area, and it is the petitioner's responsibility to make that happen, and the project will not be allowed until all the drainage requirements are met.
- The front apron along U.S. Highway 6 will be paved but the interior areas will be gravel and is considered semi-permeable.
- A block face solid wall is what will be seen from the outside if anything can be seen at all through the landscaping.
- We followed State statute with regards to notice.
- We believe the site plan and Ordinance protect the property values. With our development plan and landscaping plan we are at a minimum value neutral.
- The pond is a dry-bottom pond, so it is not a nuisance, and is safe.

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

Q: What is the drainage impact of the area?

A: The Storm Water Management Department has changed things quite a bit and now the Ordinance requires that we make drainage better. Water will now leave the property in a metered and professional manner and storm water management will require that. As well, we are required to capture, manage, and release any water that enters the entire 7 acres as if we created it. We will be managing the water that goes off site far better than it is done today.

Q: Where does it drain to?

A: We will have to contact INDOT and connect through U.S. Highway 6 pipes.

C: The properties to the east and west of this parcel were really bad. This is actually a good location, and will help the area look better. A well planned and maintained detention pond is better than an unmaintained swamp any day.

Motion: Marvin Brickner made a motion to approve UV-18-0052 to allow a mini-warehouse self-storage business as presented. Luther Williams seconded the motion. A ballot vote was taken and was 2-1 (Cook). As stated by Attorney McClure earlier, since this was not a unanimous vote this case will be automatically continued to the next regular meeting.

UV-18-0054 – Robert Jr. and Mary Anderson, c/o Todd A. Leeth, 582 Baums Bridge Road, Kouts, in Morgan Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow a proposed accessory structure to vary from the following:

- Exceed the maximum height allowed from 20 feet to 32 feet;
- Placement to be allowed in the front yard;
- Maximum floor area to exceed the cumulative square footage of all accessory structures allowed, (two percent (2%) of the square footage of the lot).

Attorney Todd Leeth presented. Robert Anderson was also present. The Anderson's home is on Baums Bridge Road just off of Highway 49 in a three-lot minor subdivision. Half of lot three is a designated non-buildable drainage easement. The Anderson's had an existing 42x64 accessory structure on lot 2 that was burned down in April of this year. The building and its contents were lost. They would like to replace the accessory structure but place it on lot 3, the same lot as their existing home, to free up lot 2. The proposed building needs to be 32 feet high to accommodate Mr. Anderson's taller vehicles while keeping an attractive 5:12 roof pitch. Lot 2 has 1.6 usable acres and the existing home sits back 275 feet from the road. Septic is located in the southwest corner and there is a septic tank to account for, so all of the usable space behind the home is taken. The proposed accessory structure will sit 120 feet from the road, will be 4,000 square feet, and measure 50x80.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. 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. Shirley Anderson, 164 East 550 South, states there are a lot of large accessory structures in the area and this will detract from anything. She is in favor.

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

Q: Why does the building need to be 32 feet high?

A: To accommodate our farm equipment such as a combine tractor, and to make the aesthetically pleasing using a 5:12 roof pitch.

Q: Why was the home built so far back from the road leaving no back yard?

A: Because when we built our home, the accessory building was located on lot 2.

Q: What about to the north of the house near the hayfield?

A: Soil test results indicated that we would be too close to the edge of the non-buildable area.

C: The accessory structure will still be 120 feet off the road. Passersby's will only see an elevation from the road and the accessory structure will match the home and be an attractive building as proposed.

Q: The combine requires 32 feet?

A: To allow for the door to open properly, yes.

Motion: Marvin Brickner made a motion to deny UV-18-0054. No one seconded the motion. Motion fails for lack of a second.

Motion: Luther Williams made a motion to continue UV-18-0054 to the next regular meeting. Debbie Cook seconded the motion. A ballot vote was taken and unanimously carried 3-0.

UV-18-0056 – Jeff Rothman, 633 North Calumet Avenue, Valparaiso, in Liberty Township in the R1, Low Density Single-family Residential District. The petitioner is seeking to continue operating a business office for Subway sandwiches and allowing storage inside a barn located in a Low Density Single-family Residential Zoning district. Mr. Jeff Rothman presented. This business office and storage has been at this located for 20+ years and we would like to continue the same.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. 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-18-0056 for five (5) years, noting the property looks very good, and with the same stipulations as previously approved. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 3-0.

UV-18-0057 – Walter Shiplov, Jr., c/o Stephen Daly, 115-2 South State Road 2, Valparaiso, in Porter Township in the RR, Rural Residential District. The petitioner is seeking to continue operating a lawn care business from a parcel located in a Rural Residential Zoning District. Attorney Joseph Cioe, Jr. presented. Steve Daly was also present. Nothing has changed. The petitioner would like to continue operating the business as is.

Public Hearing: Debbie Cook asked if any of the public would like to speak in favor of or in opposition of this petition. Ms. 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: How many employees do you have?

A: 8.

Motion: Marvin Brickner made a motion to approve UV-18-0057 for five (5) years, with the same stipulations as previously approved. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 3-0.

STAFF ITEMS:

None.

ADJOURNMENT:

There being no further business, the September 19, 2018 Board of Zoning Appeals meeting adjourned at 7:16 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco, Assistant Director