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**Porter County Board of Zoning Appeals  
Regular Meeting Minutes  
March 17, 2021**

The regular meeting of the Porter County Board of Zoning Appeals was held at 5:30 p.m. on Wednesday, March 17, 2021, in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Debbie Cook presided.

Members present were: Marvin Brickner, Luther Williams, and President Debbie Cook. Brian Damitz arrived late. Also present were Kristy Marasco, Robert Thompson, Attorney Scott McClure, Helene Pierce, citizens, and representatives of the press.

**MINUTES:**

Marvin Bricker made a motion to approve the December 16, 2020 and January 20, 2021 minutes as submitted. Luther Williams seconded the motion. A voice vote was taken and unanimously carried 3-0.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

**UV-20-0042** – (Update) – All Square Roofing, c/o Matthew & Darcy Knez, 413 East State Road 2, Valparaiso, IN in Washington Township in the RR, Rural Residential District. The petitioner is seeking the extension of a Use Variance permitting the operation of a roofing business in a rural residential zoned district. *The Board made a motion at the December 16, 2020 meeting to approve for two (2) months with the stipulation that all business-related items must be removed from the property within the approved two (2) month time period.* Mr. Matthew Knez presented. He is in the process of moving everything to his new location and is requested one (1) additional month to be completely moved from this location.

**Motion:** Luther Williams made a motion to approve UV-20-0042 for two (2) months at which time all business-related items must be moved from the 413 East State Road 2 location. Marvin Brickner seconded the motion. A voice vote was taken and unanimously carried 3-0.

**DV-16-0036 - (AMENDMENT)** - William Dykstra/Shawn Evans, 904 Grandview Avenue, Valparaiso, IN in Center Township in the RL, Residential Lake District. The petitioner is seeking a Developmental Standards Variance to allow a reduction in the minimum lot area required and a reduction in rear yard setback. Attorney Lee Lane presented. This case was presented in January 2021. The variance request will not be injurious to the general welfare of the community because the buildings have all been existing on the property for 25 years. The required lot line is 8 feet and we are requesting 7.5 feet. The location of the structure was

approved 25 years ago. Practically speaking, there is no changes other than improvements to the existing structure. The improvements are high quality and harmonious to the neighborhood. The structure will now be a residence versus an accessory structure. The footprint is not changing. The proposed lot lines are consistent with the area. The current lot size is 1,270 square feet.

*(Brian Damitz arrived at this time.)*

There is also no change in the use of the structure, the number of buildings, building placement, or the number of driveways. Mr. Dykstra took every effort to follow all the requirements before him. He did nothing without approval from the County. He also did not market or try to sell his property without proper process. Mr. Dykstra met Mr. Evans by chance. No building or activity took place without proper process. Mr. Evans confirmed he could move forward once everything was recorded. If denied, then two empty buildings will be left incomplete. The petitioners are willing to ensure run off is not negatively affecting the neighbors using gutters and redirection.

Attorney Aaron Medley, representing Mr. Shawn Evans presented. He states Mr. Evans purchased the property from Mr. Dykstra and invested a substantial amount of money into improving the parcel after receiving a permit to do so from the County. Mr. Evans' plan was to provide a home for his parents to reside in.

Mr. Shawn Evans, 911 Grandview, Valparaiso, advised when he applied for the building permit, he specifically asked what needed to be done to finish the house and that is the permit he received. Kristy Marasco confirmed that a residential remodel permit was applied for and the plans submitted were appropriate to that.

Members of the public requested to reopen the public hearing.

Motion: Brian Damitz made a motion to deny reopening the public hearing. Marvin Bricker seconded the motion. A voice vote was taken and unanimously carried 4-0.

Questions/comments were heard from the Members.

Q: How long is the new driveway going to be?

A: The plans show a two-car parking area on the north side. The petitioner is limited by lot coverage requirements with a total maximum of 60% impervious surface.

Motion: Brian Damitz made a motion to approve DV-16-0036 with the following conditions:

- Impervious surface of the property is 50% or less than 50% of the total square footage of the property.
- Storm water engineering is involved in mitigation of storm water run-off to the property, specifically the southern aspect to the eastern portion of the property within reasonable expectations.

Approval of such will not be injurious to the morals, safety and general welfare of the community, and will not substantially affect the adjacent property owners, but notes leaving an unfinished structure without gutters will be worse and Mr. Evans followed proper procedures and

this approval is vacant of any monetary investment considerations. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-21-0010** – Ryan Peters, 1200 North State Road 49, Chesterton, IN, in Westchester Township in the OT, Office and Technology District. The petitioner is seeking a Use Variance to allow a seasonal outdoor establishment for craft beer sales and serve a limited menu in OT zoning. Mr. Ryan Peters and Beth Lackney presented. They presented last month to have a pop-up box brewery location and was continued so they could go before the DRC. They have now done that and are requesting approval. DRC reports were included in the Member’s packets for review. DRC gave the petitioner a list of items to work through and they are doing that. Health Department concerns will be handled through having food trucks and following all health department protocols. There is self-contained water on the box truck. Porta lets and hand washing stations will be available and serviced by an outside company. Disposable cups and dishes will be used. Music will face northeast towards the wooded area. There is an existing parking lot on the sight as well as overflow parking available. The plan is to develop in phases as they see how things go, however, they are required to sign a three (3) year lease on the property.

Discussion took place.

**Motion:** Marvin Brickner made a motion to approve for UV-21-0010 for three (3) years with a review every year to address any complaints or issues, and with the following stipulations: no fireworks, 100 gallons of potable water must be available on site, fire extinguishers on site, maximum of four (4) food trucks at one time, hours 11 am to 8 pm Sunday through Thursday and 11 am to 10 pm Friday and Saturday, April through October, ten (10) maximum employees at one time. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**AP-20-0053 – (APPEAL)** – Jeff Szarley, 122 West 900 South, Kouts, IN in Pleasant Township in the A1, General Agriculture District. The petitioner is seeking a Use Variance to allow a pole barn to be located in the front yard, the height to be 21.5 feet (with cupola) and the appearance to be red in color. Mr. Jeff Szarley presented. Mr. Szarley has presented a couple of months now. The main concern seems to be where they started on the property. We placed the house where it is today due to an agreement with Mike Novotney. At that time, 2017, the plan was always to have a barn. As planned, we are 135 feet in front of the house and 35 feet to the west. Even with that it will be 3,000 feet from the nearest neighbor.

Members:

- Color and height are still issues.
- Losing acres of trees is more of a hardship than placing the barn in front.
- House placement was dictated by the storm water management plan and the original plans contemplated a barn this location.

**Motion:** Brian Damitz made a motion to approve AP-20-0053 to 21.5 feet high with the cupola, in the front yard, and red in color. Luther Williams seconded the motion. A ballot vote was taken and tied 2-2 (Brickner, Cook). A tied vote automatically continues the petition to the next

regular meeting date.

Motion: Marvin Brickner made a motion to approve AP-20-0053 if the color of the barn closely matches that of the house and fencing around the barn corral in the front yard is no more than four (4) feet high. Debbie Cook seconded the motion.

Discussion on the motion:

Q: Is the petitioner willing to have the barn more closely match the house and not be red?

A: We can consider it, but we will then have a white house, a red garage, and a white barn.

Q: Is the petitioner willing to move the barn back at all?

A: Yes. We can move it back an additional thirty (30) feet.

Marvin Brickner withdrew his motion considering the discussion.

Motion: Brian Damitz made a motion to approve AP-20-0053 to 21.5 feet high with the cupola, in the front yard, red in color, and set back an additional thirty (30) feet from the current proposal, and the petitioner will adhere to all agriculture standards, and add fifty (50) feet of trees to the north of the barn as screening. Luther Williams seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**AP-21-0005- (APPEAL)** – Jeff & Sheryl Reeder, 157 West 150 South, Valparaiso, IN in Porter Township in the A1, General Agriculture District. The petitioner is seeking a Developmental Standards Variance to allow for an accessory structure (3,119 sq ft) to be built in the front yard. Jeff & Sheryl Reeder presented. They presented last month and ended with a tie vote. There are no changes. The building as proposed is located in the agriculture field of their property and not the yard. As proposed the building will be an agriculture barn with a harvest kitchen. The agricultural portion will be accessed by the field and the kitchen will be accessed by the driveway.

Motion: Marvin Brickner made a motion to deny AP-21-0005. Debbie Cook seconded the motion. A ballot vote was taken resulted in a 2-2 tie. (Damitz, Williams)

The petitioner questioned if there was anything they could do to gain the Member's support. It was decided moving the barn to the north an additional 20 feet would be better. The petitioner agreed.

Motion: Marvin Brickner made a motion to approve AP-21-0005 with the condition that the barn placement is moved 20 feet to the north from the proposed plan. Brian Damitz seconded the motion. A ballot vote was taken and carried 3-1 (Cook).

### **NEW BUSINESS:**

**UV-20-0053 - (RENEWAL)** – Kerry Kapica, 3460 Anthony Drive, Portage IN in Portage Township in the R1, Low Density Single-Family Residential District. The petitioner is seeking a Use Variance renewal to allow a part-time disc-jockey business and related storage in a

residential zone district. Mr. Kerry Kapica presented. No changes. Been in the same business since 1995 with a renewal every five (5) years. 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: Brian Damitz made a motion to approve UV-20-0053 for five (5) years with the same stipulations as previously granted. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-21-0014 – (RENEWAL)** – Michael Tisma & Deanne Sasser, 294 E 600 N, Valparaiso, IN in Washington Township in the RR, Rural Residential District. The petitioner is seeking Use Variance renewal to allow a wedding venue & winery in a rural residential zoned district. Mr. Mike Tisma and Deanne Sasser presented. Ms. Kristy Marasco advised the original variance was granted in 2011 and renewed every five years. A rezone was requested but tabled until the petitioner has plan in place. There have been no complaints with the exception of one person requesting the music end at a certain time. The petitioner states the septic has been installed and they are moving forward on the restrooms. They will be requesting a permanent rezone in the future.

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: Are you adding on to the facility?

A: No, just putting in restrooms.

Q: What is going to be done with the barn that is falling down?

A: We will either tear it down or rebuild at the end of this season.

Motion: Marvin Brickner made a motion to approve UV-21-0014 for five (5) years with the condition that the barn that is falling must be fixed or torn down. A review of this case will be done in one (1) year to review the status of the barn. Brian Damitz seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-21-0015 – (RENEWAL)** – James Walker, 413 E Archer Way, Valparaiso, IN in Washington Township in the I2, General Industrial District. The petitioner is seeking a Use Variance renewal to allow retail sales of radio control hobby items and outside radio-controlled car track in an industrial zoned district. Mr. James Walker presented. They have been in business ten (10) years without complaint. Renewal is requested. Ms. Kristy Marasco stated there were 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-21-0015 for five (5) years with the same stipulations as previously granted. Brian Damitz seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-21-0013** – Adam & Kate Brown, 780 N Graham Lake Drive, Chesterton, IN in Westchester Township in the R1, Low Density Single-family Residential District. The petitioner is seeking a Use Variance to allow a private commissary kitchen in an existing building located in a residential zoned district. Adam & Kate Brown presented. They are requesting a commissary kitchen in their existing garage. They have a cottage food bake house now and sell bread at farmer’s markets and from their home. They want to be able to sell to grocers and publicly. They are requesting a permanent variance due to the number of requirements set forth by the State, the investment will not be worth it if the variance is only temporary.

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. Dan Yurks, 257 Arbor Drive, states he is in favor of this petition.

Mr. Darrel Capes, 294 E 1500 N, states he is in favor of this petition.

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

Q: Once you have this kitchen you will be able to sell publicly and will no longer have customers at your home?

A: We do hope to eliminate having customers to the house as soon as we can get the kitchen built.

Q: How many employees will you have?

A: We project five (5) maximum including the two of us. There would only be one or two on site and others would be at the markets, etc.

Q: Is this a year-round operation?

A: Yes.

Q: Have you spoken with the Health Department?

A: Yes. We are going through the process, ultimately the approval will be from the State.

Motion: Marvin Brickner made a motion to approve UV-21-0013 for five (5) years. Brian Damitz seconded the motion. A ballot vote was taken and unanimously carried 4-0.

**UV-21-0016** – Third Coast Cottages, LLC c/o Trevin Fowler, 311 East U.S. Highway 20, Michigan City, IN in Pine Township in the CH, High Intensity Commercial District. The

petitioner is seeking a Use Variance to allow for a RV resort in a commercial zoned district. Mr. Trevin Fowler, Managing Director for Third Coast Cottages, presented. Ms. Kimberly Fowler was also present. Third Coast Cottages is seeking a permanent Use Variance for recreational vehicles to be allowed on the property. There are currently 134 RV hook up sites at the National Lakeshore Campground and all of them are booked consistently. They are proposing a premium RV resort. Stays would be temporary, and never more than 30 days. They acquired this property two years ago and originally had plans to build cottages but the need for a premium RV resort exists, and the National Park supports this proposal. They have begun property improvements, revised the plan to allow for pull-through vehicles, and they are removing the septic dump stations. They will be providing water and electric hook-ups. They are requesting approval.

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.

Noting noise, safety, traffic, extremely dangerous intersection, bike route concerns, well and septic concerns, negative impact to the neighbors, drainage concerns, filled in drainage pond issues, fires, and history of the area, the following residents were opposed.

Mr. Harold Dulgren, 319-3 U.S. Highway 20, Chesterton.

Ms. Julia Waltz, 318 E 1500 N, Chesterton.

Attorney Terry Hiestand, 117 Broadway, Chesterton, representing the Dulgren Families.

Mr. Ed Clapp, Town Marshall for Beverly Shores.

Ms. Sally Mason, 294 E 1500 N, Chesterton.

Mr. Steven Fox, 1503 N 300 E, Chesterton.

Ms. Jennifer Fox, 1503 N 300 E, Chesterton.

Ms. Susan Bazekis, 259 Paul Revere Drive, Chesterton.

Mr. Trent Pendley, 285 E 1500 N, Chesterton.

Mr. David Phelps, 115 W. Stillwater, Beverly Shores.

Ms. Leslie McClaine, 115 W. Stillwater, Beverly Shores.

Mr. Rich Conrad, 317 E. Jackson St., Chesterton.

Ms. Nancy Kohloff, 334 E 1500 N Chesterton.

Ms. Tammy Bianco, 248 Arbor Drive, Chesterton.

Findings of fact were submitted by Attorney Terry Hiestand and Mr. David Phelps prior to the meeting.

In Favor:

Ms. Lorelei Weimer, representing Indiana Dunes Tourism, stating the Indiana Tourism Board voted to support this project noting it will be good for tourism, there are a lot of businesses that could go on this property that would not be compatible to the area and would be adverse to the National Park, and it is something that is needed.

Mr. Bruce Reyes, 105 E Neptune Avenue, states Mr. Fowler is an exemplary person and businessman and he is in support of this project.

Mr. Trevin Fowler rebuttal:

- Safety and traffic are a huge concern and we are aware of all the issues to that regard.
- This use is less than a percent increase in traffic.
- There is a dump station nearby within 5 miles.
- Campfires are not allowed at individual campsites.
- They understand there is a lot of history and emotional motivation this evening, however, continue to believe this is a good compatible use for the area.

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

- There is a shortage of RV sites around the area of the park.
- RV campers are high-end.
- There are issues here though and things do need to be worked out.
- Traffic is a definite concern for the Members of the Board.
- DRC needs to review this; especially the traffic concerns.

Motion: Brian Damitz made a motion to deny UV-21-0016. The motion was not seconded; therefore, the motions fails for lack of a second.

Motion: Marvin Brickner made a motion to continue UV-21-0016 for one (1) month to allow the petitioner to go before the DRC for traffic concerns, to allow the petitioner to propose a better dumping plan, reconsider the number of RV's allowed, and to address any and all other issues brought forth this evening. Luther Williams seconded the motion. A voice vote was taken and carried 3-1 (Damitz).

**STAFF ITEMS:**

None.

**ADJOURNMENT:**

There being no further business, the March 17, 2021 Board of Zoning Appeals meeting adjourned at 10:38 p.m.

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Debbie Kerr-Cook, President

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Attest: Kristy Marasco, Assistant Director