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**PORTER COUNTY BOARD OF ZONING APPEALS**  
**April 20, 2022 – MEETING MINUTES**

**LOCATION:** County Administrative Center, Ste 205   **TIME:** 5:30 p.m.  
155 Indiana Avenue, Valparaiso IN

**MEMBERS IN ATTENDANCE**

Debbie Kerr-Cook, Marv Brickner, Jim Clarida, Luther Williams, and Brian Damitz (late).

**Also Attending:** Attorney Scott McClure, Kristy Marasco and Monica Gee.

Debbie Kerr-Cook called the meeting to order and led the pledge of allegiance.

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**OLD BUSINESS:**

**Case: UV-17-0021**

**Applicant: Steven & Cynthia Andrysiak**

**Location:** 280 West 875 North, Valparaiso, IN 46385 (Liberty Township)

**Zoning:** RR, Rural Residential District

**Request:** Motion to deny, the Petitioner is no longer in need of the Use Variance permitting a small kennel and animal training classes.

**Motion:** Marv Brickner moved to deny Case UV-17-0021. The motion was seconded by Jim Clarida and so approved by a 4-0 voice vote.

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**Case: DV-22-0006** (continued from 02/16/2022 meeting)

**Applicant:** Stephen & Lauren Felty, c/o Todd A. Leeth/Katie L. Kopf

**Location:** 152 North 250 West, Valparaiso, IN 46385 (Center Township)

**Zoning:** R1, Low Density Single-family Residential District

**Request:** To allow for a proposed (60'x91') 2-story pole barn to vary from the following;

- Maximum structure height Code: 20' Request: 32'
- Maximum number of accessory structures permitted Code: 3 Request: 6
- Appearance not to match or closely resemble the finish or façade materials used on the primary structure.

Attorney Todd Leeth presented. This is a 10-acre parcel. Attorney Leeth gave a presentation at the last meeting. There are a number of accessory buildings. The petitioners want to replace a barn that was destroyed in a windstorm about three years ago. 3 years ago the BZA Hearing Officer was not happy with the condition of the property. Since that time several junk cars have been removed. Several tons of scrap metal have been removed. Some structures have been removed and the barn has fallen over. The height is the chief concern. 32' is significantly over the 20' allowed. This is a 10-acre parcel. It is near Aberdeen. If this were a 2 acre parcel it would be a different analysis.

At the last meeting there was a Public Hearing. There was one person who spoke in favor of this request. There were no negative comments. There are people present at tonight's meeting that would like to talk in favor of the request.

**Motion:** Marv Brickner moved to re-open the Public Hearing on Case DV-22-0006. Jim Clarida seconded the motion and so approved with a 5-0 vote.

Justin Hyatte - 3360 Blue Jay Drive. They have made this a beautiful farm style property. This is a beautiful barn they want to build. They have agreed to knock down two buildings once this barn is built. The silo is empty but is still there just to make it look like a barn. They have agreed to knock this down also if necessary.

Resident at 246 W 150 N – They have lived there 17 years. They have watched the Felty's clean-up this property. It was sad to see the previous barn go. This proposed barn fits the area. She knows they will do a great job. She will be looking at it every day and will be happy to have it there.

Nikitaras – 246 W150 N. This is a project everyone should be proud of. The height is not going to change. The accessory structures will not be seen from the roadway. A red barn with white trim is beautiful.

Angie Bernotus - 159 North 250 West. Letter read by Nikitaras. The Felty's are neighbors anyone would love to have. Mr. Felty is always plowing drives. It would be a disservice to the neighborhood if the Felty's were not allowed to build this barn on their property. They would not be able to service their equipment which they use to help neighbors.

Joe Walla - 150 N 250 W. The house has been remodeled and is beautiful. They are going to do a great job on a new barn. It was a loss when the old bar fell. He has no problem with the proposed barn.

Attorney Leeth addressed the Board. These are all positive comments. They have made great efforts to clean up the property.

Debbie Kerr-Cook declared the Public Hearing closed and asked for questions and comments from the Board.

Luther Williams - Biggest concern is that some of the buildings are old and dilapidated. Neighborhood kids could get in them and get injured.

Attorney Leeth – The structures that will remain are a detached garage, a chicken coop, and silo. The lean-to and corn crib will be removed once the barn is built.

Luther Williams – He is concerned about the height. He understands why they are asking for that height. He is not aware of buildings of this height being approved by this Commission since he has been on it.

Todd Leeth – It is a two story which is the reason for the height. Height is a factor of size of parcel. If this were a 2 or 3 acre parcel it would be a different story. But it is 10 acres. In urban situations height is determined by setback. You can go higher if you are further back from the road. The same applies here even though it is zoned R1.

Jim Clarida – Is this a pole type building with metal siding.

Attorney Leeth – It is truss construction.

Jim Clarida – That is a big building. Is it strictly personal use? Will he be running a business out of it?

Attorney Leeth – There is no business. They are condensing a lot of storage from the other buildings. The first floor will be storage. The second floor is a play area for Mrs. Felty and the children.

Marv Brickner – His concern is the condition of the property. He is also concerned with the size of the building. If it were just a few feet over it would be ok. This is a residential area. It is not a farm. He would be receptive to a reasonably sized building. It is 10' higher than the house. It is supposed to match the façade of the house. The property has not improved as far as cleanliness is. The dilapidated buildings are still there. There are still some cars there. The garage should be removed because it is going to fall down. The water run off on this is going to be 60,000 gallons in a 1" rain storm. He has looked at the place three times and is not sure if this is in the best interest of the public health, safety and welfare of the citizens of Porter County.

Brian Damitz – He asked where the barn will be built.

Attorney Leeth stated a red barn is Americana. Matching the main house architecture is intended for the yard barn that houses the trash can and mower of a 1/3-acre parcel. It is not intended for a barn on a 10-acre parcel. Barns are ironically red and farmhouses are ironically white. That is what the Felty's are trying to continue. The barn that fell was taller than what they are requesting.

Brian Damitz – If this is approved and it is agreed the dilapidated buildings will be removed, how many structures would there be?

Attorney Leeth – The house, the garage, the chicken coop, the new barn. We have agreed to take down the silo. We feel it is iconic and would like to leave it. But there is no functional purpose for it so it can come down if that is what it takes.

Brian Damitz - What bothers him the most is the number of structures.

Attorney Leeth – We have agreed to taking down the lean-to and the corn crib.

Brian Damitz – A garage attached to a home is considered one structure. Is the garage in good shape? Code is three buildings and you are asking for five. He agrees with leaving the silo up.

Debbie Kerr- Cook - Her main concern is the height. At the last meeting they were very quick to answer there is no negotiating on the height.

Attorney Leeth – This is true.

Brian Damitz – The majority of the building is going to be the first floor. As it comes to the center is where it hits the 32". Does that change anyone's ideas on the project?

Jim Clarida – The height is very tall. If it were a working farm it would be one thing. But just for storage it is a lot to go from 20' to 32'.

Attorney Leeth – The height is dictated on the two stories. The full footprint of the barn is not two stories. This is not a cookie cutter barn. The idea is to have that second story for the family.

Brian Damitz - Can someone give him an idea of what is 32'.

Jim Clarida – He could see 16' on the first floor and if they were willing to negotiate on the second floor. If they would have an 8' ceiling that would put them at 25' and he could see that. But 32' is tall.

Attorney Leeth - 10 acres is big.

Marv Brickner – In agricultural, you are allowed 50' for a barn. But we don't have any pole barns in Porter County that are that tall. Pole barn over 30' does not fit in a residential area.

Jim Clarida – I have 2 acres and a pole barn that is 30' X 40' and it is about 20' in height. It is a big looking building on the property.

**Motion:** Marv Brickner moved to deny Case DV-22-0006. Debbie Kerr-Cook seconded the motion. Upon ballot vote the motion failed on a 2-3 vote.

Brian Damitz – Once the motion is put in it will have a contingency of two or three structures. The second thing to discuss is the height. Is there a way to negotiating?

Marv Brickner – Would the petitioner be willing to have a smaller pole barn? One more reasonable in size and fit a residential area?

Attorney Leeth – He doesn't think the size is the issue. And it is not one of the variances. It is the height.

Marv Brickner – The size is related to the height. He also doesn't like the red color. In a residential area it should match the house. If it were a farm and agriculture area, it would be fine. If the petitioner is willing to make some concessions, maybe we could come to an agreement.

Debbie Kerr-Cook – Her opinion if we could get to three accessory structures and get the height closer to 20'-22' it would be ok.

Attorney Leeth – They lose the second floor if they come down to 22'.

**Motion:** Brian Damitz moved to approve Case DV-22-0006 with the concession that the two dilapidated structures will be removed and the silo will remain intact and the height remains the same. The lean-to and the corn crib will be removed. That leaves the house the detached garage, the chicken coop, the silo and the new barn. Luther Williams seconded the motion. Upon ballot vote the motion passed with a 3-2 vote.

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## **NEW BUSINESS:**

**Case: UV-22-0015**

**Applicant: Mary McGregor**

**Location:** 439 Piedmont Road, Valparaiso, IN 46385 (Portage Township)

**Zoning:** R2, Medium Density Single-family Residential District

**Request:** To allow for a daycare business in a residential zoned district.

Mary McGregor - 439 Piedmont Road, Valparaiso presented. Her license says she can have 12 kids. Porter County says she can only have 6 kids at day care. Because she will only work by herself and have no employees, she is only allowed 10 kids. She is looking for a variance to have 4 extra kids in her home.

### **Public Hearing**

Teresa Knight – 430-1 Prescott Road. Her concern is to make sure the speed limit signs are on the road and that there are children playing signs.

Christine Brooks – 432 Piedmont Road. She is concerned there are no sidewalks. The kids play in the street. She is concerned for the children who are already in the neighborhood. The day care will generate increased traffic.

Elaine Trinosky – 667 Piedmont Road. She is impressed with the home but agrees about the traffic situation. There is a lot of speeding.

Mary McGregor – The parents she has now do not speed. They drive very carefully. She will pay to have signs put up warning of children at play. She has been experienced for 7 years. She worked at Hilltop and she worked 10 to 1 a lot of times. She has here CDA. South Haven Fire Department has approved her home. The State has inspected her home.

Seeing no one else wishing to speak for or against Case UV-22-0015, Debbie Kerr-Cook declared the Public Hearing closed and took questions and comments from the Board.

Debbie Kerr-Cook – The back yard is fenced in. Is the gate secure so it cannot be opened by a child?

Mary McGregor – Yes. She wants a fenced in area for just the kids. State and Fire Department have inspected the back yard and it passed.

Debbie Kerr-Cook – How often does the State come and inspect?

Mary McGregor – The first year she comes every three months unannounced. After that she comes once a year. The fire department comes every 6 months unannounced. They have already taken down the pool.

Brian Damitz – Why would you want a smaller fence within a bigger fence?

Mary McGregor – I have a big yard and the kids don't need all of it. It is not for any safety reason.

Brian Damitz – How many acres?

Mary McGregor - .24 acres.

Brian Damitz – Are you planning on having toys and slides?

Mary McGregor – I already have three slides. I am not planning on adding any. She will not be adding swings. She will be adding entertainment type of things. Once she has the funds, she wants to open a day care in its own building. This is the start of her business.

Brian Damitz – He asked for her list of experience.

Mary McGregor – Her experience is patience working with children, at Hilltop she cooked lunches, she was a pre-school teacher and a day care provider. At her house she provides breakfast, lunch and a snack. She makes sure the kids eat healthy. She also gets inspected every six months for this.

Marv Brickner – You have three dogs?

Mary McGregor – Yes. They are all vaccinated and all the paper work has been turned in. The kennel is outside.

Marv Brickner – You are asking for 10 kids. Their ages?

Mary McGregor – The license will say 6 weeks to 12 years, but the State will put on the paper that she takes 2-5 years old.

Marv Brickner – And you will prepare 3 meals a day for 10 children?

Mary McGregor – Yes. She did it at Hilltop. She has worked where she is 12 to 1 many times.

Marv Brickner – His wife does this and she is worn out with 6. The Health Department has been there?

Mary McGregor – They come out once she gets her license.

Marv Brickner – Three dogs, 10 kids and one person. He wonders if the Health Department will say something about the dogs.

Mary McGregor – They are in the kitchen area where the kids don't go. There is a baby gate. They are always kept separate from the dogs.

Marv Brickner – The pool is already down?

Mary McGregor – It is down waiting for pick up.

Marv Brickner – The trampoline is fully enclosed.

Mary McGregor – It is locked and zipped so they cannot reach it.

Marv Brickner – 911 will set up a special code for you.

Attorney Scott McClure – It is called enhanced 911. It is so when they are being dispatched they know what they are going into.

Mary McGregor – She has all her safety plans drawn up. Her hours are 6 am to 6 pm five days a week. She is closed weekends and holidays.

Marv Brickner – If all are dropping off at the same time is there enough parking.

Mary McGregor – Her driveway is large. She has never had more than 2 or 3 people show up at one time. Six cars could fit in her driveway at one time.

Jim Clarida – The lack of child care in Porter County is a massive problem. He is glad to hear this is the start for something bigger. The kids will only be in the back yard?

Mary McGregor – Yes. The back yard is all that is fenced in.

Jim Clarida – How do the kids access the back yard if the kitchen is closed off?

Mary McGregor – They can go out the side door. She has a back door, side door and front door. If she goes through the kitchen the dogs are in their kennel.

Luther Williams – Are you legal in what you are doing now?

Mary McGregor – Yes. You can take care of 5 kids unlicensed.

Luther Williams – So the County says you can have 6 kids.

Mary McGregor – Licensed, yes.

Luther Williams – The most you can have in Porter County with just you are 6 kids but you are asking for 10.

Mary McGregor – Porter County says they only want 6 kids in a residential home. The State says she can have 12. But since she is working by herself, she can only have 10. She is asking for a variance to have 4 extra kids.

Marv Brickner – Someone in the County should have a street sign saying children playing.

Attorney McClure – This Board should make a motion including the sign request.

Marv Brickner – Made sure she knows there are no signs.

**Motion:** Marv Brickner moved to approve Case UV-22-0015 for two years with a review at one year. Also have two signs on Piedmont saying Slow Children at Play. Limit of 10 children. Hours of operation 6 am to 6 pm Monday through Friday. No weekends or holidays. The motion was seconded by Jim Clarida and so approved by a 5-0 ballot vote.

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**Case: UV-22-0016**

**Applicant: Denise Price (Bases Loaded LLC)**

**Location:** 884 North 100 West, Valparaiso, IN 46385 (Liberty Township)

**Zoning:** I1, Light Industrial District

**Request:** To renew the Use Variance permitting an indoor softball and baseball practice facility with the sale of snacks and refreshments from an existing pole barn.

Kristy Marasco – This is a renewal. They have had the variance since 2012. No complaints.

Denise Price (Bases Loaded LLC) - 891 North 104 West, Chesterton presented. In 2012 her dad owned this barn. Her husband and dad worked on the building and made it a practice facility for softball. There is a viewing area for parents and an area where kids can sit and do homework. They are here for another 5 years or a permanent variance.

**Public Hearing**

Seeing no one wishing to speak for or against Case UV-22-0016, Debbie Kerr-Cook declared the Public Hearing closed and took questions and comments from the Board.

Brian Damitz – This facility is necessary for the community.

Marv Brickner – There are a lot of construction vehicles behind the fence.

Mr. Price – He is a landscaper – lawn irrigation.

Marv Brickner – So those vehicles are for your business?

Mr. Price – Yes. It is their motor home.

Marv Brickner – Can you get rid of some of the trash in the back yard? It is improved since day one but it would be nice if you would clean it up.

Scott McClure – Pointed out to the new board members what the facility looked like when they came for their first variance. They listened to what the Board wanted and made it a good project. This is what you like to see when petitioners come to the Board.

**Motion:** Brian Damitz moved to approve Case UV-22-0016 for five years. The motion was seconded by Jim Clarida and so approved by a 5-0 ballot vote.

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There being no further business, the meeting adjourned.

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Debbie Kerr-Cook, President

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Kristy Marasco, Assistant Director