



**PORTER COUNTY BOARD OF ZONING APPEALS
HEARING OFFICER
May 26, 2022 – MEETING MINUTES**

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

MEMBERS IN ATTENDANCE

Rick Burns
Kristy Marasco
Monica Gee

Rick Burns called the meeting to order and led the pledge of allegiance.

Correspondence: Case: DV- 22-0029. Received correspondence from Erin and Bruce Barton who live at 275 N 600 W. They are opposed to the request.

The Agenda is amended. The Notices went out correctly. On the last case the address was wrong on the original Agenda.

Old Business:

Case: DV-22-0011

Applicant: Kristopher & Kimberly Rushmore

Location: 118 West 350 South, Valparaiso, IN 46385 (Porter Township)

Zoning: A1, General Agriculture District

Acres: 36.93

Request: To allow for a proposed pole barn to be built without a primary structure with an increase in maximum height from 20ft to 33ft to the peak.

Continued: Petitioner(s) needs to combine parcels.

Kristopher & Kimberly Rushmore - 118 West 350 South, Valparaiso, presented. They have consolidated the parcels into one with the County. Documentation has been provided. There is a total of 40 acres. The use of the pole barn is storage of equipment and a space to work on equipment. Need the height for equipment. No business will be located there. Engineers will look at the old barn that is ready to fall down. Once the new building is up, they will determine if it is worth it to fix or if it should just be torn down. Rick Burns said he could approve this but it will be contingent on being torn down or a letter from an engineer stating it is safe. If it is going to be torn down a time frame will be stated.

Rick Burns stated he has an issue with the height. He asked if it could be lowered. Recently they approved a pole barn for farm equipment and the height was 29'6". The area marked office is going to be a place for the animals and a tac room. The proposed building sits behind the house.

Motion: Rick Burns moved to approve Case DV-22-0011 at no taller than 33' height. The building will be for farming equipment and personal storage. No bathroom or living quarters. A determination will have to be made on the old barn to fix or tear down. A Certificate of Occupancy will not be issued until this decision is made. Also contingent on Petitioner signing a Written Commitment letter stating no business is allowed to be run out of the building. Should it be determined a business is in the building or someone is living in the building, it can be removed by the County at the owner's expense.

Case: DV- 22-0018

Applicant: Robert & Jennifer Huffmaster

Location: 864 Whitestone Drive, Valparaiso, IN 46383 (Jackson Township)

Zoning: RR, Rural Residential District

Acres: 1.2

Request: To allow for a proposed 40' x 64' (2,560 sq. ft.) pole barn to exceed the maximum floor area and for the height to be increased from 20' to 21' 8 1/8", to be used for personal storage. *Continued: Petitioner(s) needs to submit new plans for smaller pole barn.*

Robert Huffmaster - 864 Whitestone Drive, Valparaiso, presented. He has changed the size of his proposed pole barn. It is now 40' x 48'. The height is still the same. He is going with this size because his camper is 36'. Rick Burns stated he will approve 30' x 40' x 22'. What he is requesting is too large and out of character for the neighborhood. He needs the storage so will agree to 30' x 40'. He would like a 14' door. He would like to go 1' higher. Rick Burns suggested he use scissor truss.

Motion: Rick Burns moved to continue Case DV-22-0018 until the next meeting. Petitioner will check to see if 30' x 40' x 22' will work for him.

New Business:

Case: DV- 22-0023

Applicant: Danielle & Mark Popovich

Location: 434 North 475 West, Valparaiso, IN 46385 (Union Township)

Zoning: RR, Rural Residential District

Acres: 10.4

Request: To allow for a proposed 60' x 152' riding arena with two (2) lean-tos (approximately 640 sqft) to vary from the following codes:

- To exceed the maximum height: Code: 20' Request: 26'6"
- To exceed the maximum number of accessory structures: Code: 3 Request: 6
- To exceed the maximum floor area allowed for accessory structure(s). (The cumulative square footage of all accessory structures on the parcel)
- To allow for a legal nonconforming structure to remain with a reduction in side yard setback. • To allow a (10' x 12') green house to remain in the front yard.
- To allow for proposed secondary driveway and for the proposed driveway to be less than 100' from existing driveways.

Danielle & Mark Popovich - 434 North 475 West, Valparaiso, presented. They would like to put in a riding arena so the horses can be ridden in the winter months. The horses would be moved there from the existing barn. They have grandchildren and neighborhood children who want to learn how to ride. This is not a business. It would just be pleasure.

Public Hearing

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

Discussion: Rick Burns said they need to discuss running several businesses out of the property. The Petitioners stated they are not running any business. Rick Burns stated he saw popcorn trailers there. Petitioners explained the property those trailers are sitting on belongs to the man across the street. The trailers belong to his son-in-law. Kristy Marasco asked what is Sedley Bridge Farm? Mark Popovich said that is the name of their farm. Kristy asked why they have a business license for it. Mark Popovich replied they originally were going to do a business out of it. They have decided not to. Years ago they had Popo's Parties there. That has been dissolved. They do have some trailers that they would like to move to the arena when it is built.

Rick stated their front yard looks like it is commercial. There are trailers and sheds. The shed did not get a permit. Petitioners replied they did not know they needed to get one. It was a drop in place not something they built. Rick Burns advised them it has to be removed. It is not in the right spot. They have 10 acres so there is plenty of area to put the shed. The newer shed belongs to the man across the street. The shed in their front yard is used for flowers. It has been there about 1 ½ years. Rick Burns asked if that can be relocated. Danielle Popovich replied it is pretty. She plants flowers around it. It hides the view from the busy road. Rick Burns stated the road is very busy. That will affect having another driveway on the property. Mark Popovich explained that rather than having any trucks and trailers coming through their driveway, this would have a straight shot through what is now an existing hayfield. When they have hay cut the tractor comes through there. There would not be a lot of traffic coming through there. It would be when they move horses or when they have a cow processed. They move the horses just when Danielle has shown in the summer. They process cattle once a year. Rick Burns referred to a web page that says they are selling processed meat. Mark Popovich explained they process two cows and it is all for family and friends. The business on the web page is old and they shut down that business three years ago.

Rick Burns stated the traffic is a concern. He is going to have the highway department take a look at this proposal. He clarified that so far Petitioners have agreed to move the trailers out of the front yard and will move the shed out of the front yard. Mark Popovich asked if a second driveway is not approved, can they use their existing driveway. Rick answered they can. He asked why they need the height. Danielle said she wants a loft above the stable area and does not want to crowd the horses. They are using scissor trusses. Going back to the other barn in between their house is very tight. Sometimes water from the neighbor comes over and inundates the area. Certain times of the year it is hard to get a truck and trailer back there. The easement that comes out to the hayfield is much higher and has better visibility pulling out on the road. Rick Burns advised her the drainage issue should be turned in to the storm water office.

Rick Burns asked what the total square footage is. Danielle replied it is 60 x 152. That does not include the lean-tos. Kristy Marasco advised with the building and lean-tos they are over the allowed amount by 3,868 sq ft.

Motion: Rick Burns moved to continue Case DV- 22-0023 to the next meeting. He will have the highway department look at the proposed second driveway. He will come out and review the property and requests again.

Case: DV- 22-0024 Applicant: GBC Birky Land Holdings, LLP c/o Kevin Coros w/ McMAHON Associates, Inc.

Project: Birky Administrative Subdivision (4 Lots)

Location: 548 South State Road 49, Valparaiso, IN 46383 (Morgan Township)

Zoning: A1, General Agriculture District

Acres: 80

Request: To allow for a proposed four (4 lot) administrative subdivision to vary from the following codes:

- To allow a reduction in minimum lot size for (Lot 1);
- To allow a reduction in lot width for (Lot 1);
- To allow existing legal nonconforming structures to remain on (Lot 1):
 - o with a reduction in setbacks for existing farm house and barn;
 - o and to permit an increase in maximum area allowed for accessory structures;
- To allow a reduction in road frontage for Lot 3;
- To allow an accessory structure to be built on (Lot 3) prior to the primary structure being built.

Kevin Coros of McMahon Associates presented. This is an 80-acre homestead. They are asking for an administrative subdivision into four lots. At the southeast corner of the property is the primary house and two accessory structures. They want to keep all of the farmed area in one cohesive area. The owners will continue to farm the land. Lot 3 road frontage is requested to get a driveway all the way back. There is a moveable shed on Lot 3. They are asking to have that there before the primary residence is built.

Public Hearing

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

Discussion: Rick Burns asked for clarification on Lot 3. Kevin Coros explained there is an 18 X 20 moveable shed on skids. They moved that out there to store some equipment. They want to keep it but it will be behind the primary residence when it is built. The current owner of the property has a buyer in line. Rick Burns stated he has no issues except with the shed on Lot 3. Rick explained if the house was going to be built within a year or two he could consider it. They need to get a permit for that shed.

Motion: Rick Burns moved to approve case DV- 22-0024 contingent on getting a permit for the shed already on Lot 3. The shed will stay on Lot 3 providing that is where the house will be built and that it will be built within 1-2 years. If the house is not built on Lot 3 the shed will have to be removed within 30 days.

Case: DV- 22-0027

Applicant: Kenneth E. Seramur

Location: 982 South 250 West, Hebron, IN 46341 (Boone Township)

Zoning: A1, General Agriculture District

Acres: 6.75

Request: To allow an increase in maximum height allowed for an accessory structure from 20' to 24'4" for a proposed 36'x 48' pole barn with a 6'x8' lean-to.

Kenneth E. Seramur - 982 South 250 West, Hebron, presented. He wants to put up a new pole barn with the height of 21'4". There is a cupola on top which would take the total height to 24'4". He wants a 12' door which is why he needs the extra height. The building will be used for cold storage.

Public Hearing

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

Discussion: Rick Burns asked Kenneth Seramur to give him his definition of cold storage. Kenneth Seramur replied his tractor, small boat, he is looking at a camper, tools, rakes, shovels. The location is behind the house.

Motion: Rick Burns moved to approve Case DV-22-0027. The building will be for personal storage. No bathroom or living quarters. Also contingent on Petitioner signing a Written Commitment letter stating no business is allowed to be run out of the building. Should it be determined a business is in the building or someone is living in the building, it can be removed by the County at the owner's expense.

Case: DV- 22-0026

Applicant: Morton Buildings c/o Attorney Adam M. Sworden Homeowner: Carl & Angela Buerkler

Location: 165 West 500 North, Valparaiso, IN 46385 (Center Township)

Zoning: R2, Medium Density Single-Family Residential District

Acres: 22.71

Request: To allow an increase in maximum height allowed for an accessory structure from 20' to 30' for an existing pole barn.

Attorney Adam M. Sworden presented. This is for a pole barn that has already been built. There was an issue with the documents submitted for the permit. The building was built and the height issue was caught when they went to get the certificate of occupancy. They went back through every step of the application process. They are now here for a variance for the height. This is a 23-acre farm parcel. The purpose of the building is for farm equipment with the various farms in the area. They bring in vendors to do mechanical work on the equipment. The building does have a half bath which is a toilet and sink so the individuals they contract with to come out and work on the equipment do not have to go into the residence. The need for the height is because of some of the equipment they have between the two farm operations. Staff has looked at the building. It is 188' back from the roadway. He has not heard any concerns from the staff over the height issue. The closest neighbor is in Brigatta Hills and they are in support of the height variance.

Public Hearing

Linda Konrad – 148 Kinsale Avenue. Her property is east of the barn. She can see it and she has no problem with it at all. She likes looking at it.

Christopher Kozlowski – 193 W 550 N. His concern is it looks like an industrial neighborhood with everything that has been built. He would like to know protocol on this. The building was already up and the Notice of Meeting went up just last week. How did that get overlooked by the County? It appears someone pushed it through. Rick Burns explained the application is for 20'. That is what staff goes by. The original plan was submitted for 20'. The plans submitted for today are 30' as built. The plans submitted originally were not the correct drawings. Christopher Kozlowski stated this is almost an eyesore. With the bathroom in it, will they be bringing transient people in. This is a quiet neighborhood.

Attorney Sworden showed the floor plan. The building is all open except for a mechanical area and bathroom. They have always farmed this area. What is there now for residential is all there will be. The original plans were for what they have built.

Christopher Kozlowski – He is concerned that they will turn it into a repair shop.

Attorney Sworden replied the property owners are here today. They have been farming in this area for a while. This operation is strictly for them and helping their father's operation.

Carl & Angela Buerkler - 165 West 500 North, Valparaiso. They are the property owners. His family has been farming in this area since the 1900s. His father owns a big farm to the west. They spent extra

money to have the building insulated for sound. The building is large. If you talk to farmers, they all say the one mistake they have made is not building their buildings big enough. This building will allow them to keep all equipment inside. Once the building is done all equipment will be inside. Rick Burns stated they are allowed to have a building this large. The only issue is the height. He also stated the building is only for personal use. There is a half bath. This is so a worker would not have to go into their home or leave the site to go to the bathroom. They have talked to the Health Department. It is not finished yet so it has not been inspected.

Attorney Sworden stated once the height issue was discovered, they stopped work on the building. Rick Burns stated he saw people working on it last week. Adam Buergler replied that was not Morton. They were burying the gutters and tying them in. Rick Burns asked about the drainage of their driveway. Adam Buergler explained all the house drainage comes around to the front and is tied in to run out by the trees. The pipes on the far north side of the building are for heating. The pipe on the south side is for septic.

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

Discussion: Rick Burns stated he wants to make sure this does not turn into a living quarter. The bathroom is just for workers so they do not have to come into the home. They do most of their repairs themselves. At the end of the season they bring the equipment in to clean it. They do not anticipate bringing a lot of equipment down from his father's operation other than at the end of the season. They have semi-trucks but do not intend to use them unless they have grain to haul. They will drive the equipment from his father's operation to his place followed by a truck with flashers going. This will be done at 4 :00 a.m. so they do not disturb drivers. The building is about 10' behind the house.

Motion: Rick Burns moved to approve Case DV-22-0026. The building is for personal farming. No maintenance shop; just personal equipment. Just a half bath. Contingent on approval by the Health Department. No living quarters. Also contingent on Petitioner signing a Written Commitment letter stating no business is allowed to be run out of the building. Should it be determined a business is in the building or someone is living in the building, it can be removed by the County at the owner's expense.

Case: DV- 22-0028

Applicant: Union Township School Corp (John Simatovich Elementary) c/o Legacy Sign Group

Location: 424 West 500 North, Valparaiso, IN 46385 (Union Township)

Zoning: IN, Institutional District

Acres: 1.19

Request: To allow for a new electronic ground sign to vary from the following:

- Increase in maximum height; Code: 8' Request: 9'2"
- Increase in sign size; Code: 32 sqft. Request: 80.5 sqft.
- Increase in electronic message center; Code: 20% Request: 35.8%
- Increase in daily messages allowed; Code: 1 per 24 hours Request: 5 per 24 hours
- Location: Located within one hundred (100) feet of a Residential District.

Sean Ensign, owner of Legacy Sign Group – 7933 West Highway 6, Westville, presented. He would like to amend the request to three messages per 24 hours. The sign size and height is designed to be in harmony with the sign approved and installed in 2019.

The proposed sign changeable area is the same size as the current sign. The increase comes to the top section. Union Township does want all of their schools to be recognized as Union Township schools.

There is a lot of copy to put in that area. The upper portion will be internally illuminated with LED lights. The message center will auto dim in the evening hours. It will have a brick base.

Public Hearing

Tracey Gilliana – 279 N 600 W, Valparaiso. She has lived caddy corner across from the Union Center and Elementary School for 23 years. For as long as the school has been there, there has been a small sign. Two years ago they put in the signs at the middle school and high school. The high school is very tall. When you drive down the street at night, the light is bright. It is very distracting. It was determined she is speaking regarding the next case.

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

Discussion: Rick Burns said it is a concern about the light at night. Sean Ensign asked if there have been formal complaints about the middle school sign. The signs have auto dim for the evening hours. There have been times when that does not work. In the winter there will be reflection off the snow. The software can be looked at to make sure it is auto dimming at night. There was discussion regarding residential by each of the schools. Rick Burns asked why they have to be on 24 hours. Sean Ensign said they do not have to but if he was the purchaser he would want to get the most for his money and have them going 24 hours. The signs are capable of animation. There will be no flashing or strobing affects. These are full color units. The colors can be controlled. Rick Burns said he would need a commitment to earth colors and hours. Sean Ensign explained the schools are trying to be uniform is message center size so messages can be sent out to all schools without resizing. The time between the three panel changes is 8 seconds. Rick Burns asked if this could be 10 seconds apart. Sean Ensign replied yes. They could shut the sign down from 10:00 p.m. until 4:30 a.m. Rick Burns asked about during the summer. Sean Ensign stated they have summer school; the school would have to answer about other activities during the summer. They can agree to the earth colors as stated in the code. The background will be colors other than white.

MOTION: Rick Burns moved to approve Case DV- 22-0028 with the understanding only three panel changes per 24 hours. Ten seconds between panel changes. No animation, flashing, star bursting. Only earth colors. Black background. To be shut down from 10:00 p.m. until 4:30 a.m. If there is any issue with the timing of the sign or brightness of the sign, the school will have to work with the County to work on a solution.

Case: DV- 22-0029

Applicant: Union Township School Corp (Union Center Elementary) c/o Legacy Sign Group

Location: 272 North 600 West, Valparaiso, IN 46385 (Union Township)

Zoning: IN, Institutional District

Acres: 2.05

Request: To allow for a new electronic ground sign to vary from the following:

- Increase in maximum height; Code: 8' Request: 9'2"
- Increase in sign size; Code: 32 sqft. Request: 80.5 sqft.
- Increase in electronic message center; Code: 20% Request: 35.8%
- Increase in daily messages allowed; Code: 1 per 24 hours Request: 5 per 24 hours
- Location: Located within one hundred (100) feet of a Residential District.

Sean Ensign, owner of Legacy Sign Group – 7933 West Highway 6, Westville, presented. These are the same requests as for Simatovich School in the previous case. The amendment of three messages per 24

hours applies here also. The upper portion will be internally illuminated with LED lights. The message center will auto dim in the evening hours. It will have a brick base.

Public Hearing

Tracey Gilliana – 279 N 600 W, Valparaiso. Aesthetically this sign is pleasing. The backgrounds are not always black. Today the sign at the middle school says “Go Bearcats” and has a green background. The second message says “We are glad you are here”. The sign at the high school has a bright blue background. The auto dim does not help. Her sister-in-law – Erin Burton - lives in one of the houses across the street. Tracey lives in one of the houses across the street. They all have front porches. They like to use their front porches but at night the light is distracting. The sign is nice looking but the colors and blinking are annoying. She also does not understand why they need both signs. Everyone has a device to check on information. She would like someone to drive over there at night and see what she is talking about.

Erin Burton – 275 N 600 W. She sent a letter in stating the same concerns as Tracey Gilliana.

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

Discussion: Rick Burns clarified that the goal is to make all the signs the same within the school district. Sean Ensign replied yes. It is much easier to convey the same message. He believes there are still messages for the summer. The sign is no different than the phones. It is a message conveyer. Rick Burns said he agrees but the lighting is an issue. Apparently the high school does not have conditions on the background colors on their current sign. There will be conditions on the background colors of this new sign if approved. It was suggested to talk to the superintendent to see why a sign is needed in the summer at night.

Motion: Rick Burns moved to continue Case DV-22-0029 to the next meeting. The superintendent or a representative will be present to answer questions, including the need for a sign at night during the summer time.

Public Comment:

Brian Boznak – 336 W 500 N. He would like to know if there is a difference between a wood frame versus a steel frame building. This would be a pole barn for a riding arena and storage of hay. His other question is does the eave extension come into account for the square footage? This would be like a lean-to without posts. Rick Burns replied it can be wood post or metal as long as it matches the house. Kristy Marasco said there are setbacks to go by also. It was suggested he go to the office and get a copy of the code. Square footage is all the accessory structures combined.

There being no further business, the meeting adjourned at 3:06 p.m.

Rick Burns

Kristy Marasco, Assistant Director