



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

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

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

MINUTES:

Tabled.

CORRESPONDENCE:

Case UV-20-0042, All Square Roofing, requested a continuance prior to the meeting date and such was reflected on the agenda.

OLD BUSINESS:

UV-16-0004 – Larry Bamesberger, 3223 Heavilin Road, Valparaiso, IN in Center Township in the R1, Low Density Single-family Residential District. The petitioner is terminating the Use Variance permitting the operation of an Architectural Design Firm.

Motion: Marvin Brickner made a motion to deny UV-16-0004 to comply with terminating the variance. Brian Damitz seconded the motion. A roll call vote was taken and unanimously carried 3-0.

UV-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 thanked the Members that visited his property and requests approval as presented last month.

Q: Why was the house built back so far?

A: Due to the topography, drainage tables, and septic system. We worked with Mike Novotney because there was a storm water issue that required a storm water project that we cooperated on and also required the house to be located where it is.

Q: Would you agree to having a tree buffer?

A: Yes.

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 with the condition that fifty (50) yards of buffer trees are planted to hind the view from the roadway. Debbie Cook seconded the motion.

Discussion on the motion:

Q: Can the proposed barn be moved further to the West?

A: We are at 75 feet from the West end of the house, but it is possible. We would lose a Maple tree, but it can be done. Losing the Maple trees were a concern but if we can move it to the West and only lose one of the two then that would be better.

Q: Does pushing it further west then make it too close to the adjacent property line?

A: There would be 136 feet remaining.

New Motion: Brian Damitz made a motion to continue AP-20-0053 to the March regular meeting. Marvin Brickner seconded the motion. A voice vote was taken and unanimously carried.

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 Scott McClure advised this case is not being heard tonight. All the involved parties are trying resolve the pending issues; therefore, counsel has requested a continuance to the March 17, 2021 regular meeting.

Motion: Marvin Brickner made a motion to continue DV-16-0036 to the March regular meeting. Brian Damitz seconded the motion. A voice vote was taken and unanimously carried.

NEW BUSINESS:

UV-20-0078 – Paul Hernandez, 677 West 50 North, Valparaiso, IN in Union Township in the RR, Rural Residential District. The petitioner is seeking Use Variance to allow temporary housing in an existing structure for handicap brother. Mr. Hernandez was not present for the second time.

Motion: Marvin Brickner made a motion to continue UV-20-0078 to March regularly scheduled meeting. The motion was not seconded and therefore does not pass by way of no second.

Motion: Brian Damitz made a motion to deny UV-20-0078. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 3-0.

UV-19-0018 – (RENEWAL) – Troy & Maggie Quick c/o Attorney Katie Kopf, Hoepfner Wagner & Evans LLP, 77 East & 89 East County road 150 South, Valparaiso, IN in Morgan Township in the A1, General Agriculture District. The petitioner is seeking a Use Variance to allow a concert and religious festival on a single day each year lasting approximately eight (8) hours. Attorney Katie Kopf presented. Troy and Maggie Quick were also present. As part of their church, the Quicks host the “Gospel Bowl” annually on their property. This is a one-day, eight-hour religious concert/festival that is open to the public and free of charge. The event ends

at 7:00 pm. Two Gospel Bowls were successfully held in 2018 and 2019 but was cancelled due to Covid in 2020. Parking is contained on the property and allows for 300 spaces. A parking team of volunteers help direct traffic all day. Porta-lets are on site. Food trucks vendors are hired for food services. In 2019 a variance was granted for two years with conditions put on for parking, hours, no alcohol, no fireworks, 30 days' notice to the neighbors, and all conditions were complied with. The Quicks request approval of their renewal request.

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.

Ms. Mindy Johnson, 91 E. 150 S., Valparaiso is opposed to the petition noting the following: removal of bushes was not done, one officer directing traffic on 150 South is not enough, Board of Health was not notified of all the food places that were on site – specifically Chick-Fil-a, Emergency personnel is not on site, there was alcohol, there was light pollution, and a restraining order had to be obtained due to a member of the group in support of the event being slanderous to her and her business, and this is a stressful event for the neighbors due to the location. The event itself is okay, but the location she is opposed to. Location and safety are the major concerns.

Rebuttal:

Troy and Maggie Quick responded:

- The person Ms. Johnson referred to with a restraining order is not affiliated with them and was not in attendance at the event. We met the person after the event. We have not had any contact with Ms. Johnson for over a year and were surprised to see her here this evening.
- We go over the top with safety. We have a police officer and several grown men performing security.
- We have a full-time doctor and nurse at the event all day.
- The property was dedicated by someone that wanted to have a gospel music festival at this location.
- We only use small speakers.
- The bushes that we were supposed to remove are not on our property, so we made the intersection as safe as possible and we did that. We also had people there to direct traffic.
- There are usually only 150 people on site at one time.
- Chick-Fil-A was not serving food. They were there to give the first 500 attendees gift cards.

Attorney Kopf advised that the Gospel Bowl is one day for eight hours only. The bushes are not the petitioner's so they have done what they can do. There are volunteers at the driveway as required. No alcohol is served. The event hours are 11 am to 7 pm. There is an off-duty police officer on sight the entire day, and there are no police reports on file from the event. The petitioner was advised that EMS services needed to be aware of the event date and location but they did not need to be on sight.

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

C: Marvin Brickner noted that he has attended the event and it is incredible.

Motion: Marvin Brickner made a motion to approve UV-19-0018 for four (4) years with the same stipulations as previously granted. Brian Damitz seconded the motion. A ballot vote was taken and unanimously carried 3-0.

UV-21-0006 – Ashley Gajda, 276 Arbor 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 small animal rescue and supply shop in a residential district. Ms. Ashley Gajda presented. She represents the Northwest Indiana Chinchilla Rescue that rescues chinchillas and then adopts them out of her home. She has been doing this work for 17 years and has been located in many different places. Most of the business is E-commerce, but occasionally a customer will come to her home. She moved to Chesterton, IN recently and was informed she needs a variance for this Use. There is an existing pole barn on the property that will be the primary building for the Use. Anyone visiting would be by appointment only and we typically would only ever have a couple of visits per week. We do mostly chinchillas and do not do dogs or cats so there is no smell or noise.

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, traffic, residential neighborhood, invasive species, unwanted precedent, strangers about the neighborhood, and the home already being a noise nuisance the following residents were opposed.

Ms. Brie Zacharias, 270 Arbor Drive, Chesterton, is opposed.

Ms. Carol Donaldjohn, neighbor, is opposed.

Joan & Jack Garmondy, 801 MarMar Road, Chesterton, are opposed.

Mr. Robert Wozniak, neighbor, is opposed.

Mr. Ken Atchinson, 852 MarMar Loop, Chesterton, is opposed.

Mr. Paul Rausch, 260 Arbon Drive, Chesterton, is opposed.

Ms. Vicki, neighbor, is opposed.

Mr. Nicholas Mareno, 780 MarMar Loop, Chesterton, is opposed.

Mr. Louis Mareno, 780 MarMar Loop, Chesterton, is opposed.

Mr. Joel Suttland, 266 Arbor Drive, Chesterton, is opposed.

In favor of the request:

Mr. Mike Roswinkle, 5548 Tulip Avenue, Portage, is in favor.

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

Q: Are dogs and/or cats part of this request?

A: No.

Q: Are you shipping animals?

A: No, only supplies.

Q: Are there any other small businesses in the area?

A: According to the mail carrier, yes.

Q: Do you breed chinchillas?

A: Yes.

Q: What is the issue with already existing noise from barking dogs?

A: Was not aware of any issue until this evening. They are my own personal dogs.

Q: Where will the chinchillas be located on the property?

A: In the pole barn that we are finishing.

Motion: Brian Damitz made a motion to deny UV-21-0006. Marvin Brickner seconded the motion. A ballot vote was taken and unanimously carried 3-0.

UV-21-0009 – Joshua Cope, 114 North 641 West, Valparaiso, IN, in Union Township in the RR, Rural Residential District. The petitioner is seeking a Use Variance to allow an online firearm business in a residential district. Mr. Joshua Cope and Tara Cope presented. Mr. Cope moved to the area in November from North Carolina. He would like to continue his home-based online firearms business and is going through the process to do that in Indiana. This is not his primary means of income, but he is also a collector and in order to keep his license he must show intention to make a profit.

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.

Ms. Deborah Collins, 108 North 641 West, Valparaiso, questioned how much traffic will be generated by this, and if background checks are completed?

Mr. Richard Collins, 108 North 641 West, Valparaiso, stated he has no issue with the request.

Mr. Cope rebuttal:

Traffic is typically less than one delivery truck per week. We want to be good stewards of the community. Anyone coming to the property would have already gone through the firearm purchasing process and background checks but if something seems amiss, I can still refuse service.

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

Q: Will you be doing firearm registrations?

A: Yes.

Q: Will you have ammunition on sight?

A: Yes.

Motion: Marvin Brickner made a motion to approve UV-21-0009 as presented for three (3) years. Brian Damitz seconded the motion. A ballot vote was taken and unanimously carried 3-0.

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 and Jason Landeen presented. They are proposing using refurbished storage containers as a pop up Four Father’s Brewery at 1200 N State Road 49. This would be a seasonal business with yard space, fence, and food trucks that will allow for on-site consumption and carry out. There is an existing garage on the property that will be used as a storefront.

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: Will there be music?

A: Occasionally.

Q What will the hours of operation be?

A: April through October seasonally. Weekdays 11:00am-9:00pm. Weekends 11:00am-10:00pm.

Q: What is located to the northeast?

A: Privately owned land. Directly to the north is vacant wetlands.

Q: Will this be family friendly?

A: Yes.

Q: Will the dining area be fenced in?

A: Yes. We are starting at grassroots and making the site better as we go.

Q: Where will the food be from?

A: Food trucks.

Q: Restrooms?

A: Porta-lets that will be maintained weekly.

Discussion took place regarding health standards, planning, highway issues, storm water, etc.

Motion: Brian Damitz made a motion to continue UV-21-0010 one month to allow for DRC review and the BZA to then receive the DRC notes. Marvin Brickner seconded the motion. A voice vote was taken and unanimously carried 3-0.

DV-20-0080 (APPEAL)/Case AP-21-0005 – 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 and Sheryl Reeder presented. This is an appeal from the BZA hearing officer. They purchased the land in 1988 and built their home in 1991. Soil type and topography has affected the land management. 65% of the soil is a clay and silt mix. The topography drops 50 feet to 60 feet for several miles. The house, orchard, and garden are located on high, well-drained soil. The proposed barn is 48x56, will require no additional driveway, will be used for agriculture equipment with access from the field. A 16x24 area will be a commercial

kitchen accessed by the exiting driveway and used a food prep area. The proposed area is best for access to utilities, winter snow removal, and emergency responders. The house is set back 100 yards due to the soil and topography.

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: Why can't you place it straight north?

A: There is an existing large garden.

Q: What about the backyard?

A: Most of it is taken up by septic.

Q: How far back can you place it?

A: 15 feet possibly. We don't want to block the house family room windows.

Motion: Marvin Brickner made a motion to continue DV-20-0080 (Appeal)/Case AP-21-0005 one month to allow for Members to visit the property. Brian Damitz seconded the motion. A voice vote was taken and unanimously carried 3-0.

STAFF ITEMS:

Pole Barn Discussion – Attorney Scott McClure advised the Members that as a Board they may want to consider changing the code for Pole Barns at the Plan Commission level. Items such as height, roof pitch, definition of what in-front of the house means, etc. will all need to be decided and sent to the Plan Commission to relieve the BZA from the high number of routine requests they are receiving.

Motion: Marvin Brickner made a motion to have Plan Commission representative, Brian Damitz, take the Pole Barn Ordinance to the Plan Commission for review. Brian Damitz seconded the motion. A voice vote was taken and unanimously carried.

ADJOURNMENT:

There being no further business, the February 17, 2021 Board of Zoning Appeals meeting adjourned at 9:19 p.m.

Debbie Kerr-Cook, President

Attest: Kristy Marasco, Assistant Director