

**Town of Porter
Board of Zoning Appeals
Meeting Minutes
May 18, 2005**

A. The meeting was called to order at 7:01 p.m.

B. Pledge of Allegiance

C. Roll Call / Determination of Quorum

Present: Mr. Huyser, Mr. Snyder, and Mr. Bell, Mr. Niepokoj and Dr. Vodnoy

Absent: None

Also present were Mr. Lyp, Mr. Mandon, and Mrs. Mitchell

D. Points of Order

Attorney Lyp

Legastee matter is still pending due to difficulty transcribing the tapes. Mr. Lyp asked that when doing the roll call that members of the Board state their name so that the transcribers can identify different voices on the tapes. Also, Mr. Lyp asked that members of the Board avoid "talking over each other" to make transcribing easier.

Findings of fact are important for any future petitions and variances. Mr. Lyp gave each member a guide to follow when making motions.

E. Consideration of Minutes of Previous Meeting

Mr. Snyder pointed out an error in the April 16 meeting minutes. The first paragraph under section D needs to be eliminated because the minutes were amended. Also, Mr. Lukmann was spelled wrongly throughout the minutes.

Motion to approve the minutes of the May 18, 2005 regular meeting *as amended* was made by Mr. Bell; second by Mr. Huyser. Motion carried 4 – 0 via a voice vote.

F. Audience Participation

None

G. Old Business and Matters Tabled

None

H. Preliminary Hearing

I. Public Hearing

The Application for Variance for Lot 32 at 242 Spring View Drive in Woodlake Springs, LLC

Bob Welsch, the principle for Woodlake Springs, spoke representing Woodlake Springs, LLC. The development was approved by the Town of Porter in 1993. At that time the town had requirements for rear yard set backs of 20 feet and houses were required to be a minimum of 1,000 square feet. The Town of Porter has since passed a new ordinance increasing the rear yard setback to 35 feet and also increasing the square footage requirements to 1,500 square feet. Lot 32 in this development is currently requesting two variances which are as follows:

- 1) A decrease in the rear setback to 28.26 feet instead of 35 feet required.
- 2) A decrease in the square footage to 1,325 square feet instead of 1,500 square feet required.

Mr. Welsch pointed out that the variances requested would still exceed the requirements made by the Town of Porter in 1993.

Mr. Lyp stated that all necessary documents for this public hearing had been received by his office.

Public Hearing was opened at 7:10 p.m.

Mr. Vern Greavu, the builder of the house, brought pictures and blue prints of the house to be built for the audience to look at. He stated that the home had three bedrooms, full basement and a garage. The house would have brick on the front of it.

AUDIENCE AGAINST (comments can be heard on tape located at the Porter Town Hall)

Mr. Craig Martin, 258 Springview Drive
Mr. Jerry Stephan, 218 Springview Drive
Ms. Pamela Curtise, 262 Springwood Drive
Mr. Furmankiewicz, 317 Springview Drive
Mr. Markovich, 355 Lake Vista Court
Mr. McGlaughlin, 213 Springview Drive
Mr. Matt Ritz, 247 Springview Drive
Ms. Mari-lou DeGrou, 259 Springview Drive
Mr. Robert Schilling, 213 Lake Vista Drive
Mr. Joe Frasel, 366 Springview Court

Mr. David Robertson, 258 Lake Vista Drive
Mr. Denormandie, 280 Springview Drive

Mr. Welsch was asked by Mr. Snyder to address the concerns of the audience.

Dr. Vodnoy asked Mr. Welsch about the original requirements for square footage of a home. Mr. Snyder stated that questions for Mr. Welsch would be saved for the end of the hearing.

Mr. Welsch went on to state that the history of Woodlake Springs is important to remember when making decisions. When people purchased lots in Woodlake Springs, prior to ordinance changes, they purchased with the idea that they could build houses with 20 foot yard setbacks and 1,200 square foot homes. He thinks that it is unfair of the audience to suggest that they should get new requirements. He says there are plenty of 1,200 – 1,400 square foot homes currently in the subdivision. There are also plenty of one-story homes. He feels that there is a nice mix of homes located in the subdivision. The contract of the home is \$165,000. He does not feel it will be a “cheap” or “cracker box” home. Homes built in the subdivision over the years have ranged from \$140,000 to \$200,000. Mr. Welsch stated that the side yard requirement was not the issue at hand. The house currently being looked at does not exceed the existing side yard requirements. He once again stated that if the house was being built with the old Town requirements, the house would be exceeding the rear yard set back and the requirements for the home’s square footage. He feels this single family home will not crowd this lot or the surrounding homes. Mr. Welsch does not feel that this house will be a “big deal” with neighbors. He does not feel that the home will alter the “flavor” of the existing houses. Also, he does not feel that the value of surrounding homes will be devalued. He looks at the situation with a neutral proposition.

Mr. Bill Lewis, Building Commissioner for Town of Porter, stated that the patio is going over the side yard setback, across the utility easement, and into the drainage easement also. He has a problem with those things.

Mr. Al Furmankiewicz asked Mr. Welsch what the selling price of the lot was.

Mr. Mandon stated that by letting the audience address the Board again was “adding a step” to the normal public hearing process.

Mr. Snyder stated that as the Chairman he wished to hear the response of the audience to Mr. Welsch’s comments.

Mr. Jerry Stephan also had questions about the selling price of the home, but Mr. Snyder stated that the question could not be answered due to it being a totally separate issue.

Public hearing was closed at 7:40 p.m.

Mr. Lyp stated that value of the home does have a factor in this issue.

Mr. Mandon stated that the patio is not a BZA issue. It is an issue of building permit.

Mr. Snyder asked if the house would fit on the lot under the old ordinance. Mr. Mandon stated that indeed it would fit. Also, Mr. Snyder asked Mr. Welsch if the \$165,000 included the lot. An affirmative answer was given

Dr. Vodnoy stated that there was a discussion about the patio at the last meeting. Mr. Mandon told Dr. Vodnoy that the patio issue could not be discussed at this meeting. That question would be addressed by building permits, etc.

Mr. Greavu stated that the patio can be repositioned if need be.

Mr. Bell stated that the variance in developmental standards prior to the change made this house legal. He does not feel that anyone should have the right to tell the builder what to build.

Mr. Huyser asked how many 1,200 – 1,400 square foot homes were located in Woodlake Springs. Mr. Welsch did not know this information.

Mr. Lyp stated that there are only three items to consider when making decisions.

Mr. Mandon read Section 918.5. He feels that the variance requests like this do not set precedents for other houses. The impact of decisions made is only localized to one neighborhood. It would be helpful to know how many homes are under 1,500 and how many homes have rear setbacks of 28 or 29 feet or less. When making a decision, the consistency of setbacks etc. should be considered. He mentioned the example of Porter Cove which was brought to the Board a couple of months ago. He feels that the Board should consider whether a 2-story home would help the practical side of the matter.

Dr. Vodnoy asked why Woodlake Springs did not remonstrate the Porter Town Hall Ordinance. He asked why a grandfather clause was not put into the new ordinance. He feels that asking the Board to go against the new standards flies in

the face of the Town. Mr. Welsch mentioned that Mark I did come before the Board to ask for a developmental change but it was withdrawn.

Mr. Bell once again stated that he feels the builder should have the right to build what he wants without the opinion of the neighbors.

Motion to grant the petition was made by Mr. Bell; second by Mr. Niepokoj. Motion was carried 3 – 2; with Mr. Bell, Mr. Neipokoj, and Mr. Snyder voting in the affirmative.

J. New Buisness

Mr. Lyp stated that there was an appeal of a decision made by the Town building commissioner concerning a property by Porter Beach. On April 20th there was an application for building permit that was granted. The Building Commissioner granted the application based on the information that was given to him. Mr. Lyp and Mr. Mandon met with the neighbor to try and rectify the situation but the meeting was not successful. The neighbor filed a formal appeal on May 16th. Indiana law states that all work must stop when a formal appeal is made. The work at the site has stopped. A public notice must be given 10 days prior to the hearing before the Board of Zoning Appeals. The applicant should come before the Board of Zoning Appeals and prove that the building commissioner has made a mistake by granting this building permit. Mr. Lyp feels that this case does require a special meeting.

The builder of the house requested that a public meeting be held as soon as possible, so that his building could commence. Mr. Snyder informed the builder that there is a \$500 fee to schedule a special meeting. The builder agreed to just schedule for the regular meeting.

Mr. Lyp stated that it is required of the petitioner that she make public notice. Mrs. Mitchell will need to let Mrs. Cohen know of her need to file notices on matter BZ4 – 05.

Motion was made that the appeal for matter 3260 be put on the June 15th Agenda was made by Mr. Bell; second by Mr. Huyser. Motion was carried via voice vote.

Mr. Mandon stated that there should not be a fee given to someone (builder) who is being challenged.

K. Update from the Board of Zoning Attorney

None

L. Comments from Board of Zoning Secretary

None


M. Adjournment

Motion to adjourn made by Mr. Bell; second by Mr. Huyser. Motion was carried 4 – 0 via voice vote.

Meeting was adjourned at approximately 8:10 p.m.



Bruce Snyder
Chairman



Kara Mitchell
Secretary