

Town of Porter
Board of Zoning Appeals
Meeting Minutes
September 15, 2004

A. The meeting was called to order at 7:12 p.m.

B. Pledge of Allegiance

C. Roll Call

Present: Mr. Beckman, Mr. Bell, Mr. Snyder, Mr. Liebert, and Mr. Niepokoj.
Also present were Mr. Mandon and Mr. Lyp.

D. Determination of Quorum

Quorum was established.

E. Consideration of Minutes of Previous Meeting

Motion to approve the minutes of the August 18, 2004 meeting as written made by Mr. Bell;
second by Mr. Niepokoj. Motion carried 5 – 0.

F. Audience Participation

None

G. Old Business and Matters Tabled

1. David and Cheryl Lagestee – Petition for developmental standards variance at 420 Wagner Road for a third accessory structure.

Chuck Parkinson, attorney for the petitioners, stated he received the documents that he had requested except for some pictures that he heard were part of the file yet were not submitted by the petitioners. He disagrees with Mr. Mandon's assertion that the proposed use matters in this variance request.

Questions by Mr. Snyder:

When were the documents requested from the Town? Answer: First on July 28 and then on August 19. I received them six days after the second request.

Who is the red truck registered to? Answer: Peterson Concrete. It is still there only temporarily.

Are you aware this equipment leaves and returns to and from the property? Answer: Yes, but it hasn't left this week and he doesn't see this as a problem.

Do you have a business? Answer: No. I'm incorporated only for tax purposes.

Are there any other issues in conflict with any other government body regarding non-conformity of the property that you are aware of? Answer: None I'm aware of.

I'm asking about the billboards on the property. Answer: Mr. Parkinson does not know of any allegations of non-conformity.

The building permit on file with the Town has a comment on it that is missing from the copy in the file that was

provided by the Lagestees. The comment is from the former Building Commissioner, Doc Whisler, stating he cannot give permission to allow large trucks to park on the property. Why was this not on your permit? Answer: Unknown.

Comment by Mr. Bell: He spoke with Doc Whisler recently and he stated the petitioner originally intended to tear down the building in the back (the second accessory structure). This is basically the same petition denied last July 2003. The petitioner created any hardship.

Mr. Snyder asked for a motion denying the petition. Mr. Lyp stated the basis for any denial must be one or more of the three standards for a developmental standards variance not being met.

Mr. Bell stated they are basically running two businesses out of their [residential] property – construction equipment on and off the site and the owner/operator of a semi-truck and trailer.

Motion to deny the petition for a variance at 420 Wagner Road in the absence of meeting any of the criteria for a developmental standards variance made by Mr. Bell; second by Mr. Liebert.

Motion carried 5 – 0.

Mr. Lyp to write Findings of Fact.

H. New Business

None

I. Findings of Fact

None

J. Other Business

Comment by Mr. Bell: The Chairman needs to enforce the denial of the use variance the Lagestees petitioned for in 2003.

Motion by Mr. Bell for the BZA to send the Town Council a recommendation that the Town enforce the denial of a use variance to park a semi-truck in a residential zone; second by Mr. Niepokoj.

Comment by Mr. Liebert: Over the last several meetings I have heard that it is legal to park the semi there so why ask the Town to enforce something that is unenforceable?

Motion carried 3 – 2 with Mr. Beckman and Mr. Liebert voting no.

K. Adjournment

Meeting adjourned at 7:35 p.m. by voice vote.

Chairman

Lisa Liebert

Secretary