

Town of Porter
Board of Zoning Appeals
Meeting Minutes
August 18, 2004

A. The meeting was called to order at 7:00 p.m.

B. Pledge of Allegiance

Present: Mr. Beckman, Mr. Bell, Mr. Snyder, Mr. Liebert, and Mr. Niepokoj.

Quorum was established. Also present were Mr. Mandon and Mr. Lyp.

C. Consideration of minutes from previous meetings.

Motion to approve the minutes of the July 21, 2004 meeting as written made by Mr. Bell; second by Mr. Niepokoj. Motion carried 5 – 0.

D. Audience Participation

None

E. Preliminary Hearings

None

F. Public Hearings

1. Mark Markovich/Mark I Construction – Petition for variance at 316 Spring View Drive to build a home with first floor square footage and total square footage lower than required minimums.

Public hearing postponed by petitioner until petitioner requests to be placed back on agenda.

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

Chuck Parkinson, attorney, represented the petitioners. Stated notice has been posted and all public hearing requirements have been met by petitioners. [Mr. Lyp stated all requirements have been met and public hearing may be held.] Gave members a ‘proposed’ Findings and Decisions document. He reviewed the history of the 3rd accessory structure that is already built based on a building permit issued by the previous Building Commissioner. Said building was red-tagged as requiring a variance after being almost completely built at the cost of approximately \$32,000.

Questions by Mr. Snyder:

Is the building completed? Answer: Yes except for some electrical work.

Why was building permit amended? Answer: To change some of the dimensions.

What is the purpose of the building? Answer: To house truck, tools, supplies, and equipment.

I’ve seen construction equipment on the site; why? Answer: To build the driveway and structure; all of it is there temporarily and will be removed when all work is complete.

Why is it so large, what is it housing? Answer: The size is within ordinance. It will house work truck, equipment, and tools.

Did you know the Building Commissioner wrote on the building permit that he is not giving permission to house a truck in the

building? Answer: They did not ask for that permission and it is legal under current ordinances anyway.
What are the other two structures on the property? Answer: Two garages.

Public Hearing opened at 7:15 p.m.

There were no proponents or opponents.

Public Hearing closed at 7:16 p.m.

Questions by Mr. Liebert:

If the structure is all but complete, why is the semi and trailer still parked in the driveway? Answer: Because an occupancy permit has not been issued yet.

Once issued will you always park the semi and trailer in the structure? Answer: Yes.

Mr. Bell gave a brief background report on how this property came to be owned by the Lagestees and how this petition came to be. He stated he believes a business is being run from this residence as it is their work truck that we're talking about.

Mr. Lyp stated there are two separate issues here — what they are doing out there (building a third accessory structure) versus what they are using it for (legal parking or running a business). Tonight's petition is about the third accessory structure.

Mr. Beckman stated there are other residential properties that have commercial vehicles that park there and they are just driving to and from home.

Mr. Mandon stated there is a difference between work trucks and vans and semis with fully loaded trailers that park in an R2 zone and essentially turn it in to a truck terminal.

Rebuttal by Mr. Parkinson: The Board is looking at a Developmental Standards variance for a third accessory structure, not a use variance. Also, he disagrees that this is an illegal use, it is just parking.

Recommendation by Mr. Lyp: Provide petitioner a copy of the minutes approving the Findings of Fact and a copy of the Findings of Fact for the previously denied use variance the Lagestees petitioned for in 2003 (as requested by their attorney) and table the decision until the next meeting.

Mr. Bell asked about the occupancy permit: will it be issued prior to action being taken on the petition? Building Commissioner Dave Babcock, in the audience, stated it would not be.

Motion to table the petition until the September 2004 BZA meeting made by Mr. Bell; second by Mr. Liebert. Motion carried 5 – 0.

D. Old Business

1. Findings of Fact on Paul G. Nelson petition for variance at 1371 Old Porter Road to locate a billboard on a portion of the property for advertisement purposes.

Mr. Lyp read the Findings of Fact. Motion to accept the Findings of Fact as written made by Mr. Bell; second by Mr. Beckman. Motion carried 5 – 0. (Findings of Fact are attached to minutes.)

D. New Business

1. Amendments to BZA Rules and Procedures.

There were amendments to the location of BZA meetings, adding a Findings of Fact item to the agenda, changing the time frame to forward recommendations and other items to the Town Council, and sending final Findings and minutes to the Council when needed instead of draft versions.

Motion to pass the amendments as written made by Mr. Liebert; second by Mr. Bell.
Motion carried 5 – 0.

2. Mr. Lyp requests the Board set an Executive Session for 6:30 p.m. prior to the September meeting to discuss litigation issues relative to the Paul Nelson use variance decision.

Motion to hold an Executive Session for 6:30 p.m. September 15, 2004 to discuss litigation issues made by Mr. Beckman; second by Mr. Bell. Motion carried 5 – 0.

I. Adjourn

Motion to adjourn by Mr. Bell; second by Mr. Beckman. Motion carried 5 – 0.
Meeting adjourned at 7:47 p.m.

Bruce Snyder
Chairman

Lisa Liebert
Secretary