

Town of Porter
Board of Zoning Appeals
Meeting Minutes
August 18, 1999

A. The meeting was called to order at 7:07 p.m.

B. Pledge of Allegiance

Present were Mr. Chemma, Mr. Beckman, Mr. Bell, and Mr. Childress. Mr. Kremke was absent. Quorum was established. Also present were Mr. Mandon and Mr. Kennedy.

C. Consideration of minutes from previous meeting.

Motion to approve the minutes as written from the previous meeting made by Mr. Bell. Second by Mr. Chemma. Motion carried 4-0.

D. Audience Participation

Mr. Mandon requested to place two additional items on the agenda for the evening; John Scott for Preliminary Discussion on a line variance, and Store for Less for Preliminary Discussion on a height variance over 15'. Mr. Childress approved their addition to the agenda.

E. Old Business

Public Hearing, James Sheeran: Mr. James Sheeran present to request a use variance to establish an outdoor sales business. Mr. Sheeran informed the board of his intentions for his facility, stating it would be a small operation overseen by himself and the employees of his current business.

The Public Hearing was opened at 7:15 p.m. Mr. Childress requested comments from proponents of the request. There were no comments. Mr. Childress requested comments from opponents to the request. There were no opponents. The Public Hearing was closed at 7:16 p.m.

Mr. Kennedy requested the copy of the list of property owners surrounding Mr. Sheeran's property, as well as the letter that was submitted to them, to ensure proper notice was given about the petitioner's request prior to the hearing. Mr. Sheeran agreed to guarantee the information would be provided.

Mr. Mandon gave his staff report outlining his recommendations about the petitioner's request. Mr. Mandon stated that after observation of the property, he noted nothing peculiar about the property that would prohibit it from being utilized under its current zoning requirements. He also noted that outdoor sales facilities, such as the one Mr. Sheeran is proposing, can be detrimental to the established businesses adjacent to the proposed facility. Mr. Mandon recommended denial of the petitioner's request.

Mr. Childress asked for comments from the board members. Mr. Beckman questioned if a use variance can be granted on a temporary, probationary basis to be reviewed by a date in the future. Mr. Kennedy said he was not aware of a time-specific provision when granting a use variance. He also suggested there was nothing he was aware of that prohibited the board from placing a time-limitation upon the use variance, if it was granted. Mr. Beckman stated he would be in favor of the request if a review period were allowed when granting the use variance.

Mr. Bell stated he did not agree with the petitioner's request because there was no guarantee about the kind and quality of products to be sold through the outdoor sales facility. He also noted the recent denial of another petition presented before the BZA that would have provided a viable tax base for the community, and referenced changes being made in the Comprehensive Plan.

Mr. Chemma questioned what the appearance of the sales area would be, whether open or under tents. Mr. Sheeran stated the sales would be conducted outside on tables, which would be removed at the end of each operating day. He also stated that no vehicles would be allowed inside the fenced area.

A motion was made by Mr. Bell to deny the petition based upon finding of fact by the town Planner. No second. The motion dies for lack of second.

Mr. Chemma stated he understands the restrictions that can be placed upon the request are restricted, but would like to see a "prohibited items" list.

A motion was made by Mr. Beckman to approve the use variance to be reviewed in October, 2001. Second by Mr. Chemma. Mr. Bell questioned who would be in charge of monitoring the facility during the probationary period. Mr. Beckman stated it would be the responsibility of the petitioner, and that the time suggested should be adequate to observe proper use under the use variance. The motion was withdrawn.

Mr. Mandon stated he was not certain the town would have the right to revoke the use variance after the probationary period. Mr. Kennedy suggested the board table the issue until the next meeting so an agreement can be written.

Motion by Mr. Bell to table the petition until the September meeting. Second by Mr. Beckman. A vote was called. Mr. Beckman – Yes, Mr. Bell – Yes, Mr. Chemma – Yes, Mr. Childress – Abstain. Motion carried 3-0.

Public Hearing, AT&T/Tom Tittle: Petitioner is requesting a use variance to install a monopole and antennas on property owned by Tom Tittle. James Kopeny present to speak on behalf of AT&T. Mr. Kopeny presented information about the need to provide improved coverage to AT&T's customers by installing a new monopole and antennas, and that the current structures were inadequate to fulfill the coverage need. Mr. Beckman questioned if the possibility of locating the antennas on the Chesterton water tower was likely. Mr. Kopeny informed the board that he attempted to contact Northern Indiana Water Company to check if co-location of the antennas upon this structure was allowed, but received no viable response.

The Public Hearing was opened at 7:57 p.m. Mr. Terry Hiestand questioned the technologies being used now and in the future for cellular service. Mr. Kopeny provided an explanation of digital and analog technologies. Mr. Childress asked for comments from proponents of the request, there were none. Mr. Childress requested comments from opponents to the request, there were none. The hearing was closed at 7:59 p.m.

Mr. Mandon asked Mr. Kopeny how the towers would be accessed from a vehicle standpoint. Mr. Kopeny pointed out the access road. Mr. Mandon stated the reason for the question was based upon a contact from the Indiana Department of Transportation who informed Mr. Mandon they would not be granting any more independent curb cuts from the cloverleaf.

Mr. Mandon provided his recommendations to the board. He stated the town does not have a policy or requirements regarding co-location of antennas. He also pointed out that the board should request an ordinance from the Town Council to help protect the town from the building of more telecommunications towers in the future. Mr. Mandon questioned if the board has the authority to deny the petition. Mr. Bell questioned if the petition was denied would it be the responsibility of the petitioner to seek another option.

Mr. Bell pointed out the letters addressed to the other wireless service companies were dated August 10, 1999, and that there

was little to no probability these companies had an opportunity to respond of their intentions. He also noted this type of request/circumstance has occurred in the past, and that it was very likely another similar request will be presented to the BZA again in the future.

Further discussion of the technology pointed out there is no, if not limited, service by AT&T at this time in the area. There is no ordinance to determine when Porter has enough towers, and no guarantee of co-location of other companies upon the new structure in the future.

Mr. Mandon noted a hardship under the current circumstances is apparent. He indicated it was imperative to pursue the water company, as they have not yet responded to the petitioners attempts co-locate upon the Chesterton water tower. Mr. Mandon expressed concern that the board may not be able to legally deny the petitioners request.

Mr. Kennedy indicated there are still too many questions to be answered before a viable decision can be made. He suggested the board table the issue until further research can be conducted within the area to exhaust all options for co-location of the AT&T antennas.

Mr. Childress pointed out the five points to grant a use variance must be proven by the petitioner.

Motion by Mr. Beckman to table the petition. Second by Mr. Bell. Mr. Beckman indicated he would like the petitioner to pursue other avenues for co-location, in particular NIPSCO to utilize the high-tension wires along the Little Calumet River. Mr. Bell indicated his agreement with postponing the decision in the interest of allowing the other carriers more time to respond with their intentions. A vote was called: Mr. Beckman – Yes, Mr. Chemma – Yes, Mr. Bell – Yes, Mr. Childress – Yes. Motion carried 4-0.

Discussion of BZA Rules and Procedures: Each member submitted their changes to Mr. Mandon for review to set for adoption at the next meeting.

F. New Business

Preliminary Discussion, Wayne Hickson-Hedrick Sign Company: Petitioner proposing to update and refine signage at the former Travel Port truck stop, which is now Travel Centers of America. Mr. Hickson provided a detailed explanation of the proposed changes to be made upon the property

Mr. Chemma suggested the petitioner meet with the public works director, and the police department to discuss any changes that would be incorporated, and how they might affect the traffic in the area.

Mr. Bell questioned the existing square footage of the current signage, as it relates to the proposed square footage of the proposed signage.

Mr. Childress questioned the reason a variance is being requested. Mr. Mandon stated it was because the proposed square footage is in excess of the allowances under the current zoning.

Motion by Mr. Bell to place Hedrick Sign Company for Public Hearing at the September meeting. Second by Mr. Chemma. Motion carried 4-0.

Preliminary Discussion, John Scott: Petitioner requesting a variance to add a garage and porch onto an existing structure.

Motion by Mr. Bell to set for Public Hearing at the next meeting. Second by Mr. Chemma. Motion carried 4-0.

Preliminary Discussion, Store for Less: Attorney Terry Hiestand present to speak on behalf of the petitioner. The

petitioner is requesting a variance on a height restriction to allow for taller structures than 15' upon the property.

Motion by Mr. Bell to set for Public Hearing at the next meeting. Second by Mr. Beckman. Motion carried 4-0.

G. Adjourn

Motion was presented by Mr. Bell to adjourn. Meeting adjourned at 9:10 p.m.

Paul Childress
Chairman

Lisa Liebert
Secretary