

**Town of Porter
Board of Zoning Appeals
Meeting Minutes
May 20, 2015**

A. Meeting was called to order at 6:37 p.m.

B. Pledge of Allegiance

C. Roll Call

Present: Kremke, Timm, Huyser, Sexton

Also Present: Ms. Sufana, Ms. Frost, Mr. Mandon, Mr. Barry

Absent: Mr. Stronks

D. Quorum-There is enough present for a quorum.

E. Consideration of Minutes from April 15, 2015

Mr. Sexton made a motion to accept the minutes from the April 15, 2015

Mr. Timm seconded

Motion approved 4-0

F. Audience Participation-None

G. Old Business and Matters Tabled

Seven Peaks Water Park/Scott Brinton

150 E US HWY 20

Porter, IN 46304

Amending Written Commitments for Variance

Mr. Brinton appeared on behalf of Seven Peaks Water Park, requesting changes to certain of commitments agreed to as conditions of the previously approved Use Variance, in particular, Seven Peaks is requesting modification and/or extension of some of the time deadlines for completing certain of the conditions.

As a preliminary matter, Mr. Brinton questioned why this matter is listed on the Agenda as an amendment of the commitments when the form of the written commitments has not been finalized yet? Mr. Kremke clarified that the form of Written commitments were approved by the BZA at the April 15, 2015 meeting, Although the final document had not yet been signed by the parties and recorded. Ms Frost further clarified that all of the requirements specified in the written commitments are part of the written Findings of Facts, which have also already been approved by the BZA, and they are all conditions of the approval of the use variance. Accordingly, the request is treated as an amendment of the conditions of the variance approval, which are to be specified in the recorded written commitment.

Mr. Brinton then addressed the specific changes being requested. With regard to the requirement that Waverly Road be widened he thinks any traffic problems can be addressed without widening the road. He stated that he is moving the parking booth back to the North and West. The patrons would enter at second driveway on North

go back and go West to parking booth and that should alleviate the traffic on Waverly Rd.

Mr. Brinton then explained that the changes being requested are as follows:

- June 6, 2015 they will reconfigure the parking lot entrance in conformity with the original drawing. This will include moving the parking booth to the north and installing a new driveway made of stone millings. Duneland Group is working on new drawings and they will be done next week so it will be a little off.
- June 6, 2016 they will pave the north parking lot entrance.
- October 31, 2016 they will begin the first half of the installation of the landscaping in the parking lot area acceptable to the Town.
- October 31, 2017 they will finish the second half of the installation of the landscaping in the parking lot area acceptable to the Town.
- October 31, 2016 they will complete the first half of the parking lot paving and installation of any other remaining items as set forth in, and in accordance with, the plans as approved by the Town Plan Commission on August 31, 2013.
- Additionally, by October 31, 2016 they will install the first half of a drainage system acceptable to the Town which is sufficient to alleviate any drainage and flooding problems associated with the parking lot, including without limitation along the north side of the parking lot.
- By October 31, 2017 they will complete the second half of the parking lot paving and installation of any other remaining items as set forth in, and in accordance with, the plans as approved by the Town Plan Commission on August 31, 2013.
- Additionally, by October 31, 2017 they will install the second half of a drainage system acceptable to the Town which is sufficient to alleviate any drainage and flooding problems associated with the parking lot, including without limitation along the north side of the parking lot. Basically after next season he will start paving the parking lot.
- By June 6, 2015, White Stallion LC will install a fence on the south side of the parking lot separating the parking lot from the adjacent Summer Tree residential properties. White Stallion LC and Summer Tree HOA must agree upon the type of fence to be installed. Fenced will be installed on May 27, 2015. Mr. Brinton received a call on May 19, 2015 saying hold up did not realize the fence would be that close to their property.

Lynn Johnson, 204 Summer Tree Dr, says there was a miss understanding regarding the fence. When they were discussing the fence they were on the berm and that is where she thought the fence is going to go. Now that they have staked out where it is to go 10 ft" from there back doors now they are not sure they want it. The brim is on the water park property. Mr. Timm stated that if you buy a piece of property you should know where the property line is. The owner of the water park can put the fence where he wants to on his own property. Ms. Johnson responded that in all

honesty, she didn't want a fence anymore.

Dan Corona, 158 Summer Tree, stated that he just moved there in March and just found out about the fence. He has no problem with helping people out and thinks the fence will depreciate the value of his property. Mr. Corona is asking that Commission to agree with him and work with water park if there is a problem. He does not want Seven Peaks to put up a fence.

Mr. Timm asked whether there is a way to take the fence requirements out of commitments? Ms. Frost stated that doing so would not be any different than making any other amendment to the commitments. These are all conditions of granting the variance, but do not change the variances granted themselves.

Mr. Mandon asked whether, since the petition has all ready been to public hearing, would making these changes require another public hearing. Ms. Frost stated that another public hearing is not required because these are only conditions of granting the variance that were imposed by the BZA and do not change the variance as requested or granted.

Shannon LeFever, 200 Summer Tree, wants clarification of whether the fence would be behind first unit or all the units?

Mr. Brinton replied that the fence would just be behind the first unit. The trees are a natural barrier in the back.

Mike Barry stated that to solve the run off problem from the parking lot would require some grading and a berm. He would like to see it done this year so the residents don't complain.

Mr. Mandon stated that when TAC discussed widening Waverly Road it was deemed vital that a turn lane goes in, but on a time line. He suggested keeping the requirement in the written commitments but modifying the time frame to be put in within 2 years, and then if Seven Peaks deems it not necessary they can come back and request to revise the requirements.

Mr. Huyser asked about the elevation change on the new entrance. Mr. Brinton replied that The Duneland Group is working on it.

Mr. Brinton then repeated the requested revised time line-

- June 6, 2015 move the parking booth North, make gravel entrance
- July 31, 2015 pave the first 30 feet of new parking lot entrance, drainage problem fixed in the parking lot
- June 6, 2016 pave entire entrance parking lot entrance
- October 2016 will start paving parking lot.

Mr. Kremke goes over the changes to make sure all are included

- July 31, 2017; turn lane completion date
- June 6, 2015; move the parking booth and make gravel entrance
- July 31, 2015; pave the first 30 feet of new parking lot entrance
- There will be no fence required between the parking lot and Summer Tree
- July 31, 2015; a new drainage system to be completed for parking lot draining on north side of parking lot west side of road

Ms. Frost stated that in the form of written commitments the changes need to read identical on both parts. Also a few items were added as part of the BZA approval at the April 15, 2015 meeting and need to be added as follows:

- Size of paintball area would not exceed 200'X250' or 50,000 sq ft total with a net at least 12' high
- no loud speakers to be used for paint ball
- The diameter of paintball/gun may not be smaller than 50 caliber and only bio-degradable paint can be used
- Ice skating rink is outdoor only.

Mr. Kremke repeated the changes:

- Timeline for completing construction of turn lane on Waverly Rd changed to July 31, 2017;
- Additional entrance will be installed by June 6, 2015;
- Paving of first 30' of entrance will be by July 31, 2015;
- There will be no fence required between the parking lot and Summer Tree;
- Parking lot drainage on north side of parking lot west side of road will have a new drainage system approved by Town of Porter installed by July 31, 2015;
- The size of paintball area may not exceed 200'x250' or 50,000 sq ft total with a net at least 12' high;
- No loud speakers to be used at paint ball area;
- The diameter of paintball/gun may not be smaller than 50 caliber and only bio-degradable;
- Ice skating rink is outdoor only;
- The payment booth in the parking lot will be moved to the north and west to allow more stacking of cars;
- The rest of parking lot entrance to be paved by June 6, 2016;
- The first half of landscaping in parking lot to be completed by October 31, 2016;
- The second half of landscaping in parking lot to be completed by October 31, 2017;
- The first half of parking lot paving to be completed by October 31, 2016; and
- The second half of parking lot paving to be completed by October 31, 2017.

Mr. Sexton made a motion to modify the written commitments as read by Mr. Kremke
Mr. Huyser seconded the motion
Motion passed 3-1 Mr. Timm opposed

Mr. Sexton made a motion to amend the finding of facts to conform to written commitments
Mr. Huyser seconded the motion
Motion passed 3-1 Mr. Timm opposed

H. New Business


I. Other Business- none

Update from Attorney-nothing
Board Comments-nothing


J. Adjournment- 7:38 pm

Mr. Timm made a motion to adjourn the meeting. Mr. Sexton seconded the motion
Motion approved 4-0

Next Meeting will be held on June 17, 2015



President Date 6-17-15



Secretary Date 6-17-15