

SPECIAL
Town of Porter
Board of Zoning Appeals
Meeting Minutes
August 23, 2023
Porter Town Hall

- A. Meeting was called to order at 5:45 p.m.
- B. Pledge of Allegiance
- C. Roll Call
Present: Kremke, Eriksson, Huyser, Wagner, Albrecht-Mallinger
Absent: Sufana, Barry
Also, Present: Ms. Spanier for Sufana, Mr. Mandon, and Ms. Frost
- D. Quorum-There is enough present for a quorum.
- E. Consideration of Minutes-NONE
- F. Audience Participation-NONE
- G. Old Business and Matters Tabled-Tabled Public Hearing for Mark 1 Construction, 1507 Ash St, requesting Development Standards Variance to decrease rear yard setback by 5 ft. Mark Markovich, 1300 Brassie Avenue, Chesterton, he understand that there was a deadlock last week's meeting. Mr. Markovich states a hardship was created by creating a 35 ft lot setback. In 2003 the town of Porter grow 33%. Markovich reads the town Ordinance on setbacks. The lot in question back in 1928 was plotted with 20 ft setbacks. Was the intent ordinance to overlay all town lots in a one size fits all scenario regardless when they were plotted or developed. The homes in Porter Cove was grandfathered in. The ordinance gives hardship to storage sheds, allows balconies less than 3 ft over the 35 ft were grandfathered in. What the ordinance doesn't say is about gazebos and swimming pools in this ordinance. If we deny this petition are we giving favored status to some and not to others? We could build a 1200 ft garage with a 1200 ft ranch on top of it , keep it under 35 ft tall, and still be in ordinance. It will work for the Metz, but will it work the neighbors or the town. He believes the original setbacks should be grandfathered in. He is asking for support in this variance.

Mr. Kremke ask Mr. Mandon to answer some of Mr. Malkovich's questions. Mr. Mandon states that a lot to the reasoning the developer is giving is inaccurate. Mr. Mandon states code was changed because they wanted a variety of house sizes. They wanted setbacks that were contiguous. If the rear yard setbacks are reduced the neighbors to east are more effected than if the front yard was reduced and housing was allowed to be closer to street. The back yard is used the most that is why they did the 35 ft setback to have enough room between structures. He states practical difficulties is what they

should be looking at not hardship. Practical difficulties should be hard to prove. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. The choice is for the developer he can either build a house that will fit the property or sell to someone else because it hasn't been developed yet. He recommends the variance is denied. Mr. Markovich responds to Mandon he disagrees that 5 ft will make that much difference. Mr. Markovich states we have allowed storage sheds in Porter Cove. Mr. Mandon asked why are we talking about storage sheds, the code was changed for storage sheds so no variances were needed. Ms. Frost states there is a difference between town code and variances. Mr. Huyser states he could put a shed in the back yard without a variance. Mr. Eriksson asked why you are asking again for variance for everyone. Mr. Markovich states his client has a bigger truck and they are trying to make the house similar to what is already there instead of building a ranch. Mr. Mallinger asks zoning change applies to everyone just new law. Mandon agrees. Mr. Mallinger second something should be done, rules should be changed, who makes those changes. Mrs. Frost the Plan Commission makes changes. Mr. Mallinger clarifies the term grandfathered, this house was built with the old rules, it burns down, and you are grandfather in with what it was. Mrs. Frost states legal non-conforming is definition of grandfathered. She states this is a vacant lot not a non-conforming structure. Mr. Mandon comments the developer has another option he can resub divide and change property lines. Mr. Mallinger that would have to be done at Plan Commission. Mr. Huyser comments it's tough to grant a variance when you say you cannot use the lot as intended when you have four other houses on same size lot. Mr. Mallinger made a motion to deny position, Mr. Huyser seconded. Motion passed 5-0 with roll call vote.

Ms. Frost states you will need to do the findings of facts and needs to discuss why it was denied. Lots are buildable, self-imposed do to design of the house. 1. Will not affect the neighboring houses. 2. Value will not be effected because unimproved alley in rear. 3. Will not result in practical difficulties in use because has not been shown lot is buildable, house can be designed differently.

Mr. Huyser made a motion to approved findings of facts as read, Mr. Mallinger seconded. Motion passed 5-0 with roll call vote.

H. Preliminary Hearing-NONE

I. Public Hearing –

J. Other Business-

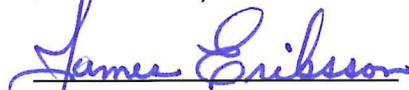
Update from Attorney-NONE

Board Comments-NONE

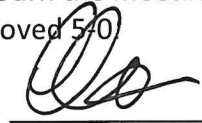
K. Adjournment- 6:17 pm

Mr. Mallinger made a motion to adjourn the meeting, Mr. Huyser seconded the motion. Motion approved 5/0


John Kremke, President


James Eriksson

Erik Wagner


Robert Albrecht-Mallinger, Vice President


Henry Huyser


Tammie Sufana, Secretary