

# Burns Harbor Board of Zoning Appeals

Minutes of Tuesday, November 22, 2016

The Board of Zoning Appeals of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Tuesday, November 22, 2016 in the Town Hall. The meeting was called to order by Board of Zoning Appeals President, Bernie Poparad at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

## Roll Call:

Tracy Freeze ..... Present  
Gordon McCormick ..... Present  
Timothy Minier ..... Present  
Kevin Tracy ..... Present  
Bernie Poparad ..... Present

## Additional Officials Present

Building Commissioner-Bill Arney  
Building Commissioner-Randal Lopez  
Attorney-Christine McWilliams  
Secretary-Marge Falbo

## Minutes

Minier moved to approve the minutes of September 27, 2016. Tracy seconded the motion. Motion carried by all in favor vote.

## Communication, Bills, Expenditures

Secretary Falbo says she received Bob Kerr's Use Variance Application yesterday and will distribute the copies to the Board after the meeting. Bob Kerr was scheduled to appear tonight and is on the agenda under Old Business, however he is not present.

## Report of Officers, Committee, Staff

Building Commissioner Arney says Bob Kerr's secretary made contact with us at the Building Department and they will be coming in as well.

Poparad says for everyone here and everybody on the Board, we have a new Building Commissioner. His name is Randal Lopez. He has been around and doing inspections for a long time. Building Commissioner Lopez says eleven years. Poparad says he is not new to the Town but new to this job, so we will be working with Lopez right along. Of course, we'll still get Building Commissioner Arney once in a while. Building Commissioner Arney says Building Commissioner Lopez will take over full time on January 1, 2017.

## Preliminary Hearing

None

## **Public Hearing**

Poparad says before we open the Public Hearing, I invite Renee Holiday to the podium to state her request.

Poparad says when we have a Public Hearing we have some procedures to follow. There will be communications only between whoever is speaking and the Board. There will be no talking to anyone in the audience.

Holiday says we are seeking to purchase the property at 246 Melton Road, but prior to purchasing the property we would like to ask the Board if we are appropriate for that location, and if so, we would like to ask to build a dry storage building at that location for our company.

Poparad asks if there is anything else Holiday would like to add. What does dry storage entail? Holiday says it will be for parking our Semi trucks. Poparad asks if all of them will be parked inside. Holiday says some of them would be parked inside. We have employee pick-up trucks that drive with some tools. Poparad asks if that is just day parking. Holiday says yes.

Minier says one of the questions I have is the trucks you are going to be parking there. I'm assuming are VAC trucks. Holiday says yes. Minier asks where are they being cleaned out. Holiday says where we drop disposal off at. Holiday says Tierra, Aqua, Clean Waters. Minier asks are you a licensed generator or an arranger under CERCLA, or do you have work permits. Poparad says we will get back to that in a minute.

Poparad says he needs a staff report and asks if all paperwork was in order.

Secretary Falbo says there was a discrepancy with the property owners or neighbors within 300 feet. I could not locate 246 Melton Road nor was it a selection on [www.porterin.mygisonline.com](http://www.porterin.mygisonline.com). (GIS) 244 Melton Road was an option so I did my search using that address and it resulted in ten neighbors versus Holiday who came up with four. I'm not sure what search engine she used but there is a discrepancy between the two.

Poparad asks Holiday how did you determine who was your neighbor.

Holiday says Secretary Falbo sent her the link and I typed in the address, hit the target button and then it showed me the neighbor over the tracks, actually I sent out more than four letters. I believe it was six, but some of the addresses were duplicates. Poparad says so you probably got Lake Shore Ford and Lake Shore Toyota. Holiday says there was a Trust company so I had the physical address. I also sent out envelopes to not only the physical addresses but the Trust company addresses as well.

Poparad asks Secretary Falbo to read off what we got for green cards. Secretary Falbo says Lake County Trust 3824, Lake County Trust 4767, Lake County Trust 36 and Bulk Transport. These are listed on both the Use and Developmental Standards Variances. Poparad says so we have none for Pilot. Holiday says she sent one to Pilot at 243 Melton Road and the Lexington Kentucky Headquarters. Secretary Falbo says it's not listed here. Holiday asks do you have the updated one. Secretary Falbo says this is the one that you gave me. Poparad says do you have something that shows this. Holiday says yes, when I dropped off the green and white cards, she took a xeroxed copy of every single one. It wasn't Secretary Falbo; it was another woman who notarized my stuff. Actually I have a copy of it. Secretary Falbo says she never received it.

Poparad says to Holiday, I have a question for you. Are you buying the whole parcel, what is it, 7 or 8 acres? Holiday says the little asphalt area. Poparad says so you are buying just a little parcel and asks Holiday if she is buying the property from Arnell. Holiday says yes. Poparad asks why Arnell is not on the neighbors list. Holiday says she just went off GIS, whatever was listed on that.

McCormick says it is one piece of property, are they going to divide it. Poparad asks if that is two pieces of property. McCormick says, no, it's one parcel. Attorney McWilliams says that is why there is a discrepancy in the address.

Attorney McWilliams says she would like to see the print outs to make a comparison right now. Poparad says if you would take a look at what we've got; Building Commissioner Arney may be able to help you. Poparad also says he knows the Lake County Trusts belong to Bob Kerr. Poparad asks about the railroad and the State of Indiana.

Attorney McWilliams says as far as the Town code is concerned, the notice of neighbors within 300 feet can be obtained from the Assessor's Office, mygisonline, or they can go through a title company. Poparad asks if they were sent out registered mail. Holiday says yes and she has copies of the letters she sent to the neighbors.

Attorney McWilliams says it looks like the only one that would be in question would be if R&B would have fallen within the target range for this specific address. They fall within the range using the 244 address but if it's two separate parcels it sounds like they would not fall within the 300 feet. Poparad asks what is Arnell's property address now. Attorney McWilliams says it would be the 244 address but what they are trying to purchase is the 246 address and it is two parcels as Building Commissioner Arney indicated. Building Commissioner Arney says Arnell subdivided that for Mega Auto. Attorney McWilliams says it does not look like R&B received notice. Poparad asks Holiday if she sent notice to R&B. Holiday says she just went by the results that GIS produced. Poparad says you did have Bulk Transport and they butt up together right behind your place. Holiday says she has two addresses she sent the letter to 720 West US Highway 20, Michigan City, Indiana and then the address in Chesterton so I don't know. Poparad says as long as you sent it and you have proof you sent it, whether they got back to us or not doesn't matter. If we didn't send one and we needed to have something sent so he had notice to come to this meeting, then that's a different story.

Attorney McWilliams says the question that she has is what address did you type into GIS. Holiday says 246 Melton Road. Attorney McWilliams asks if she was given results with that. Holiday says yes. Poparad says Arnell owns this as one piece of property. If he used the 246 address for Mega Auto, where he broke the lots in two, it looks like they didn't record it and that's why we're not getting the 246 address. Attorney McWilliams says Holiday is asserting that she did get the 246 address on GIS.

Attorney McWilliams asks Secretary Falbo if she has something to add. Poparad asks did you ever find 246 Melton. Secretary Falbo says she never saw 246 as a selection. Poparad asks did you find 244. Secretary Falbo says yes. That is what my neighbors list is based on. Attorney McWilliams says Holiday is saying that she was able to get results using 246. If that is correct and her results are different, it was in fact the correct address. I would then say it was sufficient notice. However, I don't have anything in front of me that shows that 246 was a workable address.

Poparad asks if they have another address in that parcel of land. Building Commissioner Arney says he would have to see the plat. Poparad says there has to be more addresses in that parcel. Building Commissioner Arney says it's a large piece of property.

Attorney McWilliams says if 246 was entered on GIS and produced a different list of properties than what Secretary Falbo submitted, and Holiday complied with the list that she was provided, then the notice is sufficient. The question is whether or not that occurred and I don't have anything that shows me it did or did not happen other than her testimony.

Freeze says Holiday should go back and rerun the search and print out what it was she was working from. Attorney McWilliams says that is up to the Board. Poparad says we are basically talking about one property across the railroad track. Attorney McWilliams says correct and notice was also published in the newspaper regardless of the 300 feet requirement. Every other aspect of the notice was complied with, correct Secretary Falbo. Secretary Falbo says yes.

McCormick says that piece of property is one piece of property, it is not divided in two. The paved lot with the sales building and the property west of it is all one lot on the GIS site. Vargas says we are purchasing 1.8 acres. Poparad says are we subdividing this now, is it a subdivision. Building Commissioner Arney says that's a question only Arnell could answer. Poparad says to Building Commissioner Arney if Arnell has a big lot and he's selling 1.8 acres off of that, is it a subdivision now. Building Commissioner Arney says, no, but he can subdivide his lots and I know he doesn't want to sell the entire lot. Vargas says correct he didn't want to sell the entire lot but maybe in the future he might.

Building Commissioner Arney says you can't sell half of a full parcel, you can't do that. So whether it's recorded on GIS or not, if he wants to sell it, it has to be divided, but we don't have any record of that. Vargas says he has subdivided paperwork and it is only 1.8 acres. Poparad says we're not disputing that but it's 1.8 acres out of seven acres. Vargas says his paperwork shows it's subdivided already because I did ask him about the actual size, how much was I actually getting, and if I wanted more he told me he didn't want to sell the rest right at this moment. Building Commissioner Arney says we don't have any record of that on file or if it was actually being partially divided.

Poparad says there are a couple of things we need to get cleared up before we get into this, such as, what is actually happening to this lot, are they subdividing it, has it been subdivided, what is the proper address, who got sent notification. I'm not trying to stall but we have some things here that just aren't working with what we have.

Minier says he personally doesn't feel comfortable moving forward until we get things straightened out and until we know what the facts are. I don't want to go on guesses here because it will come back to bite us later if we don't do this right.

Freeze says it could come back to bite Serenity as well, my concern for you guys is to make sure everything is ok. Vargas says he understands that, but after the meeting today if we're going move forward with this, we want to make sure everything is right.

Poparad says we want to make sure everything lines up before we can proceed with what you want to do. It can come back to bite the Town too if we gave you something and everything wasn't right.

Attorney McWilliams says as far as what it means for this property, if it was not subdivided and whether there's even an ability to sell it. If it was the Board's wish to grant the variances that are being requested prior to knowing the status of the property and how that would ultimately involve the Town as Poparad has brought up, I'm not sure. I don't know if it would have any overall impact or not. I don't know without having had this information prior, as far as, is this one parcel or is it

two. Has it already been partially divided, I don't know what that would mean for the Town's code as well. I just would not have that answer tonight without that information.

Poparad says there are a lot of things that need to be answered. We have already opened the Public Hearing. Attorney McWilliams says you can continue the Public Hearing at the next meeting. Poparad says we will continue the Public Hearing and go from there once we have all the paperwork in order. Poparad tells Vargas and Holiday that they might have to take a ride to the Assessor's office and find out if the parcel has been subdivided. If it's been subdivided, what's the address of your parcel. We can then work off of that. I don't think a lot of things will change with your notice but since we've already opened the Public Hearing you won't have to send out notices again since it's an active hearing.

Poparad asks the Board if they are ok with this decision. The Board agrees with Poparad.

Poparad tells Vargas and Holiday that he is sorry but they need to talk to Arnell and ask if he subdivided the parcel, go to the Assessor's office and find out if it is shown as subdivided. Did they just do it on a handshake and not subdivide it and, if they did, they didn't record it. Poparad says ok. Vargas and Holiday say yes.

Minier made a motion to continue the Public Hearing next month at which time all the required paperwork and information is to be in order and provided to the Board. Freeze seconded the motion. Freeze-Aye, McCormick-Aye, Minier-Aye, Tracy-Aye, Poparad-Aye. **Motion passed.**

Vargas asks if he needs to send R&B notice at this time. Poparad says if after your research and you have all your information, you have a different address, go to GIS and type in that address in and if R&B appears then send him notice. Then bring your green and white cards and you'll be good because everyone else received notice. Freeze asks Holiday to print out her Porter County GIS results and bring them to the next meeting.

## **Old Business**

### ***Bob Kerr-Lake Shore Ford***

***Use Variance Application requesting an extension of time to permanently pave unpaved graveled area.***

Poparad says we have the Use Variance application from Bob Kerr and asks if the Board would like a copy so they can look at it for the next meeting. The Board agrees. Poparad says we will have him on the agenda for a Preliminary Hearing on December 27.

### ***Facades***

Poparad says he has been working on a façade program and says if anyone would like to look at it. Secretary Falbo says she has the presentation along with the text. Poparad says it shows the current and proposed styles mostly for RC1 and RC2. Poparad says Secretary Falbo can send them to you so you can look it over. Poparad says he and Biancardi met several times with Kuchta and Hicks of Global Engineering to get some guidelines in place.

## **Good of the Order of the Community & Any Other Business**

### ***Core Construction-Dirt Dumping***

McCormick says the only question he has is the property on U.S. Route 20 that's been raised 18 to 24 inches - what's happening with that. Building Commissioner Arney says it's being addressed. The Council is aware of it, we are dealing with the property owner and the people who

put the dirt there. They have given me a recent survey which shows it was six feet over the agreement that we made. They have an engineer and excavation plan and the deadline is Friday, November 25. There is also another property they dump dirt on, that I've been dealing with, which is Sara Oudman's development where we're also dealing with the same issue. Poparad says they just decided to dump dirt all over the place. Building Commissioner Arney says yes and the options are, I guess, we either work with them or we have them remove the dirt, which in my opinion would create a mud pit. They should never have been putting the dirt at either location. Oudman and I have talked several times today and I told her we are trying to figure out the best remedies. I would like it down to pretty close to grade which is 14 inches and they are approximately 24 inches now. We are working on it.

**Announcements**

None.

**Adjourn**

Minier moved to adjourn at 7:44 pm. Tracy seconded the motion. **Motion carried by all in favor vote.**

**APPROVED on December 27, 2016**

---

Bernie Poparad, President

---

Marge Falbo, Secretary