

**Town of Porter**  
**Board of Zoning Appeals**  
**Meeting Minutes**  
May 19, 2004

**A. The meeting was called to order at 7:03 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 March 17, 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. Paul G. Nelson petition for a use variance at 1371 Old Porter Road to locate a billboard on a portion of the property for advertisement purposes.**

Attorney Greg Babcock made a presentation on behalf of Paul Nelson (also present). Each Board member was presented a packet of information (on file with petition) and Mr. Babcock explained the proposal using aerial photograph. He pointed out specifics about the site including:

- a. The proximity of Interstate 94;
- b. Peterson Ditch and it's associated 75 foot easement;
- c. No sewer line access at this time; and
- d. The other billboards and signage in the area.

Mr. Nelson gave a review of why he is requesting this variance and how he intends to use the billboard. He gave the Board a cost estimate on construction, property purchase, and process fees. He also informed the Board of INDOT requirements and that he is in the process of meeting those also and gaining their approval.

Current property owner Mr. Ed Peterich spoke on lack of buyers for the property even though it has previously been for sale; he is willing to sell it to Mr. Nelson for the use he intends.

Mr. Babcock then addressed the five requirements the petitioner must meet in order for the Board to grant a variance and argued that each has been met.

Mr. Snyder asked Mr. Lyp if all requirements have been met for holding a public hearing. Answer: Yes. Also, the Town's paperwork shows the Hawthorne Park Community Building as the location for the public hearing but that issue had been

addressed to his satisfaction.

Question by Mr. Snyder concerning the requirement for a platted survey: Mr. Nelson explained the difficulty in getting a surveyor but will have the survey by the next meeting. Mr. Lyp recommends we hold the public hearing yet delay any decision until we have the platted survey.

Question by Mr. Snyder to Mr. Babcock on other signs in the area: There are ten in this general area.

Question by Mr. Snyder to Mr. Nelson on marketing sign to locals only: He will try to market to locals only but does not want to be penned in by such a condition.

Question by Mr. Snyder to Mr. Nelson on guarantee of continued upkeep of sign and property: The investment amount argues that it will be maintained. Also, the Town may apply conditions along with the variance to gain such a guarantee.

Public Hearing opened at 7:29 p.m. for questions or statements either for or against the petition.

Cheryl and Danny Norris, 1330 Old Porter Road: Does not want inappropriate advertisements on the board (such as adult clubs). Concerned about lighting when the trees are bare in winter. Also concerned about property devaluation. Presented a list of property owners in the area against the petition (entered into record and on file with the petition).

Public Hearing closed at 7:35 p.m.

Mr. Babcock stated rebuttal on these issues: Mr. Nelson stated he would accept conditions against certain types of advertisements. Spoke about the size of the billboard and what type of lighting it would use (that reflect up). Also spoke about planting fast growing trees on embankment to help block the view of the board to the east.

Question by Mr. Beckman: Do you [Mr. Nelson] have control of the embankment? Answer: No, that is on Mr. Norris's property.

Question by Mr. Snyder: [To Mr. Nelson] How far from board to Mr. Norris's home? Answer: 400 feet.

Question by Mr. Bell: [To Mr. Norris] How far from board to your home? Answer: 250 – 300 feet.

Staff Report: Mr. Mandon stated he believes all five standards for granting a use variance have been satisfied. He spoke on the intent of the Zoning Ordinance to make placing billboards very difficult. Stated that I-94 is the compelling reason arguing in favor of a billboard because of the difficulty in developing such an area as R-1 in the future.

Question by Mr. Snyder: Is it standard in most municipalities to make placing billboards difficult? Answer: No, it depends on the municipality.

Question by Mr. Snyder: Is there non-obtrusive lighting available? Answer: Yes. Technology has improved and there is such lighting available.

Statement by Mr. Bell: Disagrees with Mr. Mandon's contention that the five standards for granting a variance have been met. It will be developed eventually as R-1 and people will make backyards facing I-94. Also believes a billboard would conflict with the Comprehensive Plan.

Motion to table the petition until the next regularly scheduled BZA meeting and pending receiving platted survey made by Mr. Bell; second by Mr. Niepokoj. Motion carried 5 – 0.

## **D. New Business**

Question by Mr. Snyder to Mr. Lyp concerning a letter the Town has received about a home on Franklin Street being sold. Mr. Lyp did receive some correspondence and recommended they get a variance but has not had further discourse with realtor since.

Mr. Lyp gave the Board members an update on the status of the current litigation re: Dale Brewer petition concerning construction at 171 Bote in Porter Beach. There is no [next] court date set at this time.

## **H. Adjourn**

Motion to adjourn by Mr. Bell; second by Mr. Beckman. Motion carried 5 – 0.

Meeting adjourned at 8:00 p.m.

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Bruce Snyder  
Chairman

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Lisa Liebert  
Secretary