

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

## MINUTES

**September 12, 2022**

Chairperson Troike opened the meeting at 6:35 p.m.

**I Pledge of Allegiance-** led by Chairperson Troike.

**II Roll Call-** Bob Troike (Chairperson), Mark Allen (Vice-Chairperson), Denise Cultice (Executive Secretary), Gwen Rentz (Member), absent, Jason Downs (Member), Justin Schramm (Attorney), Wallace Williams (Boz) (Building Commissioner), Mary Beever, Planning Commission Administrator, Tina Holley, BZA Secretary

**III Review of the meeting minutes for – August 8 2022.** After review, Denise Cultice motioned to approve minutes as presented; seconded by Mark Allen. Voting unanimous.

**IV Chairman Troike opened the floor to discuss tonight's Public Hearing. –**

Public hearing to consider a use variance request by MP Developments, LLC; owners Mike & Pricilla Pearce to extend existing campground on property owned by MP Developments, LLC and described as follows: Pt N of RR NE NW S27 T34 R1 4.2 acres. Parcel Number 75-03-27-500-002.000-009, located at 9415 E 500 N, Grovertown, IN 46531. Chairman Bob Troike asked if all notifications were in order. Tina, Recording Secretary stated they have all been returned. Bob Troike asked Atty Schramm to read the conditional use ordinance that pertains to this variance. Boz also stated that he is still waiting to get a response from the State for the septic approval but that does not have anything in regard to the variance being presented to the Board tonight. Attorney Schramm read the Use Variance Ordinance to the Board.

Mark Allen motioned that we open the floor for the public hearing; Denise Cultice seconded. Voting was 3-0. The floor was opened for the public hearing. Bob Troike asked that the applicant share the reason for the Public Hearing. Mike Pearce, the applicant, sent the General Manager of EZ Kamp, Gary Greiner; who responded. He stated that he and his wife Danette have been working under Mike's direction in contacting the State of Indiana for continuous modifications with the septic; the last one being about 10 days out. The intent is to expand the campground by 46 sites to the west side of the campground which includes a new septic, water and electric. The campground has been at this location for many years; purchased by Mike and Pricilla Pearce a number years back and has had many improvements; i.e., updated electric, bathrooms, paved road, to name a few. The intention is to add new permanent RV sites

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which will add economic benefit to the Starke County area and improve the campground. The plan is to get started this fall and be completed by Spring 2023.

Bob Troike, President asked for those in favor of petition to identify themselves for the record and state their response. Eleanor Harris, 9430 E 500 N, stated that she lives across the street along with Janice Hughes and finds the campground pleasant with no complaints; no loud noise or disruptions. Years ago, it was not very good; now it is a very nice place to camp once Mike Pearce purchased it. Her only concern is the home owned by Ms. Nissen; needs a fence or something as this will be in their back yard. Rumor is a restaurant – Gary stated that there are potlucks but no restaurant idea. Ms. Hughes agreed to the request that perhaps a fence or a visual barrier of some type be installed. Otherwise, she is in favor of this expansion.

Opposed neighbors were then permitted to take the floor. Tracy Guzak and her mother Sharon Nissen of 9315 E 500 N expressed their opposition to this expansion. Tracy went on to state that she is fearful of the encroachment to her back yard. Her issues were cars, people, trash, noise. It is very peaceful now and she is concerned that will stop her from sitting in her back yard watching Route 30 and the cars/trucks go by. They find that peaceful. She is also concerned as to safety since they will be surrounded by more people/strangers. Concerned as to traffic on 500 – darting children, dogs; the road isn't equipped for increase in traffic. This expansion will attract a lot of attention – will affect her property value and taxes and will change their way of living. They have no problems with the current campground – love the people, owners; its clean, peaceful. What they are requesting, if this is approved, is that they install a tall privacy fence. In addition, they are requesting a gate in their driveway so people are not coming up to their door asking question/getting directions, etc.

Eric and Michelle Stenberg, 9320 E 500 N, spoke as to the wind blows trash/boxes and noise level is a concern with the dogs barking, kids screaming – campground has a pool. It is tolerable now but the expansion will increase that. Concern also on drainage since adding these sites. The more water they use – the levels will drop. They have a pond and have noticed its' level dropping since the campground changed its' irrigation; also, their wells. He also stated that Mr. Pearce owns a Construction Company and already has large equipment on the road which he believes has a weight level now which this road was not built for this. Also, safety concerns with addition of cars, bicycles, kids, with no road edges now. Headlights of cars/RV's coming in and out at all times of the night is also a concern. Campers walk up and down the road with their dogs, not cleaning up. Otherwise, the campground is pleasant and a good neighbor.

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Bob Troike, President, asked for a response from the Manager, Gary Griener. Gary stated that he polices the area 24/7 and picks up any trash. He stated that at one time there was a fence at Ms. Nissen's residence but was constantly blowing down due to winds so it was removed per her request to Mr. Pearce. Gary stated that the Campground is a very good neighbor – it is not a “trailer park” and is very clean and quiet. They exercise the rights to evict those that do not want to follow the rules; Good Sam rated them 8.5 – 10 for the Midwest. There is a lot of rain but the area is mostly sand so the water drains very quickly. There are also plans to move the playground away from 500.

Mrs. Nissen then initiated further comments as to being afraid – Gary then responded that they screen the occupants; it's primarily an older aged group of campers.

Justin Schramm then read the ordinance again for the Board's review.

Mark Allen brought up the concern as to policing of the campground in relation to the safety as expressed by the neighbor from 9315 E 500 N. Gary Griener responded that they have had an individual that performs that who resides on the campground. Campground is only open October 15 to April 15. There is no camping on property during the off season. There is no longer weekend camping permitted, no pop-ups, tenting; states an RV Campground only. Week, month, or seasonal only. Mark stated that the expansion of the campground now puts campers at the back door of the Nissens. He also stated that he would like a covenant stating security provisions that are being done.

Motion was made by Mark Allen to close the public hearing; seconded by Denise Cultice. 3-0 voting in favor.

Discussion ensued amongst the Board members. Justin Schramm again brought up the ordinance stipulations to clarify anything. Boz stated that the entire east side of the campground was completely redone several years ago with septic/water/electric. The State is still reviewing the expansion certificate for the septic. The system will be to the front of property- toward Rt 30 like the current one.

There was much discussion amongst the audience and the Board. Denise asked about the electric which will be subcontracted out.

Ms. Stenberg asked about the gray water disposal. It was stated that all waste water goes into the septic.

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Denise also asked about the campground when the campground is closed. Gary stated that it is closed completely. Jason Downs asked what kind of fence would be sufficient. Much discussion started again amongst those in attendance.

It was asked that Justin Schramm read the use ordinance over again to clarify.

Denise Cultice made the motion to deny the request to expand the campground at 9415 E 500 N. Seconded by Mark Allen. Voting was 3-0.

Gary Griener asked what can he do at this point. It was told to him he can wait 6 months and re-apply or obtain an attorney and appeal the decision to the Starke County Court System within 30 days. Gary asked exactly why was this being denied. Atty Schramm stated particularly items 1, 2, 4, and 5 from the ordinance. He re-iterated to Gary that the owners, Mike & Pricilla Pearce will need to appeal the decision and will need the Findings of Fact document that Atty Schramm will provide within 5 days of tonight's decision.

Gary Griener asked that if the property at 9315 E 500 N was sold to MP Developments LLC, would there not be an issue. Mark Allen stated that they would have to re-apply to the Starke County Board of Variance Appeal. Bob Troike then brought the meeting back to order and continued on to the next item on the Agenda.

## **NEW BUSINESS:**

Viola Woods – Member of Lomax Station Property Owner's Association requested to be at tonight's meeting to express her concerns of the business licenses that have been issued at the Lomax Station Property.

Viola introduced herself as well as the Vice President of the Lomax Station POA, Mr. Gerald Cannon; and Paul McGinn, Treasurer. Viola stated she is the Attorney for the Association as well. To avoid any confusion, she stated they are all friends but the purpose of us them being there was that they have a conflict with Mr. Cannon as he feels differently than Mr. McGinn and she does. They want to know how to do what the party before them did here at tonight's meeting. She looked at the Starke County ordinances and the State of Indiana law and emailed Mr. Schramm, Ms. Holley, Ms. Beever, and Boz Williams as she was not clear who was the Zoning Administrator. The State of Indiana states that this Board has to develop a rule that simply states who are the interested parties that get notice of an appeal. They wish to make an appeal and need to know who

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are the interested parties to notify. The Indiana Law also states this Board decides how notice is given. Ms. Woods stated that there is the notice in the local newspaper for the Public Hearing along with the notice by mail to the interested parties along the border of the applicant's property. Thirdly, this Board decides who gives this notice. She was asking for this information and Ms. Holley suggested Ms. Woods attend the meeting.

Mary Beever, Planning Commission Administrator was in attendance tonight to advise and teach Tina, the new Recording Secretary for the BZA. She was able to respond to Ms. Woods statements.

Mary responded to Ms. Woods that as she stated her request to both herself and Ms. Holley, she doesn't believe that is why she is here tonight. All of the information that Ms. Woods states she is asking for is given and explained as an applicant once you apply with the Board of Zoning Appeals to have an appeal heard in a public hearing. This gets sent out as a packet to the applicant who is seeking a variance. The information that Ms. Wood's supplied seems to be in reference to all the permits that Mr. Cannon was issued in 2013. Ms. Beever stated Ms. Woods was opposed to those permits initially.

Viola responded yes that is true, they are not seeking a variance nor a conditional use. They believe that 8 licenses have been issued over a various amount of time that were not given notice. There were 8 different licenses none to Mr. Cannon with 8 different registered agents as stated in the letter also attaching the list of those. All of the 8 difference licenses, 8 separate companies, with 8 different registered agents all applied for conditional use licenses to be located on property that Mr. Cannon owns. Mary replied that those 8 applied for business permits; not conditional uses and she agreed with Ms. Woods as well as the Board that these 8 licenses should have gone through the Board of Zoning Appeals. However, the Building Commissioner at that time allowed these licenses to go through without going through to the BZA because it was explained to him that these were going to be shell corporations or office space with no one actually being at the property; therefore, getting approved. Mary stated she was not disputing with Ms. Woods that these should not have been issued but the problem is they have been issued starting back in 2013. If they came in today for a business license, they would be told no. Viola responded that she did not disagree with anything that has been said thus far but that it is her statutory right under Starke County Ordinance and the State of Indiana that they have the right to appeal to the BZA, which is written in black and white. Starke County Ordinance reads "Any person aggrieved by the decision of the Zoning Director may appeal such decision to the Starke County Zoning Board. She believes they have the right to an appeal. She was initially informed by Pamla Starkey

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that they were conditional use licenses as she gave her the chart that is used which is the Starke County Conditional Use License Chart which has all the zoning districts which is permitted after due process. Ms. Woods continued that they believe they have the right to make the case in front of the Board of Zoning Appeal after proper due notice to the public and interested parties. They assume that the interested parties will be the 8 registered agents of the 8 different companies as they were granted conditional use licenses in a platted residential gated community subdivision zoned agricultural near the vicinity of San Pierre wholesale auto licenses. They either have to be specifically permitted under the Starke County ordinance as agricultural permitted uses or they have to be granted an exception to a variance. There is no statement in the Starke County Zoning ordinance that permits wholesale auto licenses in an agricultural area; now there are 8 of them and she feels they have the right under Starke County and State Law to a hearing.

Mary stated that Ms Woods would not be the one appealing the decision. Ms. Woods stated yes, they are as they are the agreed party. Mary stated that the applicant appeals and you would be given notice as one of the adjoining neighbors. Some of these licenses are from 9 years ago – another was June 15, 2020.

Mary went on to state to the Board that what she believes Ms. Woods is asking for is for the Board to revoke the already issued business licenses and then have Mr. Cannon go through the BZA to come under compliance with the 8 business licenses. There was some discussion as to who would need to come to file at the BZA Board to be heard. Ms. Woods read the Registered Agents names.

Bob Troike asked for input from Justin Schramm due to the confusion that was erupting. Justin stated that he represented Mr. Cannon in the past and would be a conflict of interest although it was several years ago. If Mr. Cannon, Ms. Wood's and the Zoning Board is okay with that. Ms. Woods asked her client, Mr. McGinn if he was okay with this and he responded yes. Mr. Cannon and the Board were also okay with Justin Schramm representing the Board in this matter.

Justin stated that Ms. Woods is delving into who are the interested parties because Starke County has put in a protection whereby the Indiana code may not have. They do have rights because Starke County has created that. He went on to explain that he couldn't find anything that stated any time limits to appealing a decision by an administrator. Therefore, Ms. Woods has a right to a hearing.

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Mr. Cannon went on to describe the buildings and the area. He states that this area is a campground and has always been that. He dispersed pictures and paperwork that showed the buildings and the right of way. The buildings were built by Rockefeller and has always been offices; Mr. Cannon started in October 2011. The homes that were there were built on trailer frames – not in the ground and are over 169 years old and have probably been multiple offices over the years. There was much discussion.

Justin again stated that there is no time limit so they can go to the BZA if they wish.

Ms. Woods asked if she needs to file with the BZA for each license or if she can just file one. Yes, one \$200 fee since they are all on one piece of property. Ms. Woods was directed to continue with filing with the BZA if she so wishes. She was told to stop in office and get the packet from Tina.

With no further business, Mark Allen motioned to adjourn the meeting – seconded by Denise Cultice.

Meeting was adjourned at 8:00 p.m.  
Respectfully submitted,

Tina Holley  
BZA Secretary

This meeting was recorded and will be on file in the zoning office. The next meeting of the Starke County Board of Zoning Appeals is scheduled for October 12, 2022; the latter of 6:30 p.m. or the conclusion of the Planning Commission Meeting, in the Starke County Government Building, located in Knox, IN.