MINUTES OF THE REGULAR MEETING OF THE
MICHIGAN CITY BOARD OF ZONING APPEALS
TUESDAY, FEBRUARY 12, 2019

The Michigan City Board of Zoning Appeals met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Tuesday, February 12, 2019, at 6:00 p.m., the time, date and location for holding of said meeting.

Chairman Zimmer called the meeting to order, and upon roll call, the following answered present:

Wallace Hook, Dennis Knaup, Karen Janus, Lester Norvell, and Lawrence Zimmer.

Also present: Skyler York, Assistant Planner; Janelle Robinson, Court Reporter. Absent was Counsel Steven A. Hale.

The next item of business on the agenda was the approval of the minutes from the Tuesday, January 8, 2019, regular meeting.

Mr. Norvell made a motion to approve the minutes of Tuesday, January 8, 2019. Seconded by Mr. Knaup.

The roll call vote was taken as follows:

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<td>Mr. Hook</td>
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With a roll call vote of all ayes, motion carried, and the minutes were approved.

Chairman Zimmer called for the first petition.

Petition B-116-18, Solsciend Energy, LLC, requesting Special Exception Use to allow ground mounted photovoltaic solar array for the production and sale to NIPSCO under its feed-in-tariff program. Continued from January 8, 2019.

Granger Souder, of Solsciend Energy, LLC, Jim Mellowitz and Matt Hook, property owners, approached the lectern and introduced themselves to the board.

Mr. Souder explained to the board the feed-in-tariff project that was developed by NIPSCO and offered to customers to build, own and operate solar arrays, and that for 15 years NIPSCO would purchase the power generated from them. He also stated that Solsciend has done 15 of these projects so far, and is very familiar with the program and the projects.

He then continued on to explain the project before the board. That’s it’s on Pahs Road, one acre, and that their proposal is to have a 25-foot setback on the north and south, and a 15-foot setback on the sides. He stated that it’s in a B2 zoning district which allows a zero side yard setback, but that they are agreeing to 15 feet, which will give them the space to have 630 solar panels, which is 30 percent smaller than similar projects. He explained that they have agreed to a shadow box on the south border, a six-foot chain-link fence around the outside edges, along with some landscaping to soften the south border. He went on to explain how solar arrays are silent,
have no moving parts, and that they will be monitoring them from the Internet to know if maintenance is needed. He then went over the findings of fact they had prepared.

Jim Mellowitz then took the lectern and stated that he and his partner, Matt Hook, had come up with the idea of the NIPSCO lottery and wanted to do good for the earth and climate and build this solar array. He went over different reasons they feel it is a good use for the property, along with stating other types of developments that would be more intrusive to the neighboring area. In describing their plans he stated the Planning Department was concerned about the view from the neighboring area and agreed to put up of a shadow box fence, but that they are wanting to build a six-foot fence and the Planning Department wants it to be an eight-foot fence. He went on to explain the buffer zone required under B2, when it’s next to R2, calls for a six-foot wall, not eight foot. He also went over the setbacks again, stating that if they increase the setback on the south to 35 feet as Planning had requested they would lose a row of panels, destroying the economics of their project.

Chairman Zimmer then asked for the attorney’s report, to be followed with the department reports.

Mr. York first stated that he had gone over the mailings and submissions by the petitioner with Attorney Hale and everything was in order to go before the board. He then went over the key points of the attorney’s report (H.I.), advising the board of their options.

Mr. York then read into the record departmental reports (H.I.) wherein the department recommended the approval of the petition with the following conditions: One, an eight-foot tall privacy fence, such as a shadow box fence, shall be installed along the entire length of the south property line; two, screening and form of landscaping, as per table 17.02(c)(2), buffer type A, minimum planting requirements of four Evergreen shrubs, vertical for every 40 linear feet of property line along the entire southern property line, species to be approved by the city forester; three, setback for structures on the south shall be 35 rather than 25; four, all solar array structures will be uniform in height and not taller than nine feet measured from the lowest point of elevation on the property; five, all solar panels and equipment shall be removed within six months from the day the approved solar panels are no longer providing energy or the system is discontinued, whichever occurs first. In addition, all of the actions set out in the decommissioning plan shall be accomplished with 12 months from the day approved solar panels are no longer providing energy or the system is discontinued, whichever occurs first.

Chairman Zimmer called for questions from the board.

Mr. Knaup first expressed his concern of what the view would be when driving in the area, and compared it to existing areas with solar arrays that are better hidden from view. He then asked if the grass area would be mowed and maintained, and was told that would occur more than once or twice a year. As far as the view from the roadway, Mr. Mellowitz stated that they are putting in landscaping to soften the view and reiterated how this would be much less intrusive than other commercial uses that create increased traffic, lighting, and other noise. There was then continued discussion regarding the planting of trees and shrubbery to help block the view of the panels.

Mr. Norvell asked if the eight-foot fence and 35-foot setback would address the concerns expressed by Mr. Knaup, and the petitioner was not of the belief that the increased setback would make any difference in the view. There was then further discussion regarding the proposed shadow box and possible materials that could be used to build a fence along the property.

This was followed with Chairman Zimmer asking about the 15-year plan by NIPSCO, and it was explained to him by the petitioners that if there was no further use for the solar arrays it would be removed per the decommission plan.

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Mr. Phillips of the Planning Department explained that they had had several back and forth discussions with the petitioners regarding the fence height and setback, stating that if the fence creates a barrier from the utilitarian look of the project they could be more flexible with the setback requirement. He also explained that when they make their recommendations they don’t only look at the existing area, but what futuristic plans of the area might be, and that this is a prime area for future residential property. He stated that they haven’t had any shadow studies down with regard to an eight-foot fence, but that the idea is to screen in the utilitarian nature of the structures. There was then continued discussion between Mr. Phillips, the board members and petitioners regarding the height of the fence and the type of landscaping used to address the concerns of the view. Mr. Phillips followed up saying they want to come to a happy medium with the petitioner, but that this is not a give and take situation, that it needs to be a give on the part of the petitioner.

Chairman Zimmer concluded with saying he feels there is a creative solution to this, and that having a professional landscape designer look at it might help them create a plan that meets the needs of both the petitioner and the department, which was agreed to by the petitioner. It was then recommended that this petition be tabled to the next regular meeting.

Mr. Knaup made a motion to table Petition B-116-18 to the next regularly scheduled meeting on March 12, 2019. Seconded by Mr. Hook.

The roll call vote was taken as follows:

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With a roll call vote of all ayes and no nays, Petition B-116-18 was tabled to the regularly scheduled March meeting.

The next petition called was Petition B-100-19, Centier Bank c/o Dan Plank, requesting Development Standard Variance to allow placement of signage on Franklin Street (parcel I.D. 46-05-08-476-018.000-009).

Chris Willoughby, Braje, Nelson & Janes, 126 East Fifth Street, approached the lectern introducing himself along with Dan Plank of Centier Bank and Tim Overmyer of Vanadco Signs. He went on to explain that the parcel the bank branch is on is on a split property, and that as a result of the business receiving their permit for signage prior the need for a Developmental Standard Variance came about. He stated that everything else has been in compliance, except for the LED sign they want to put up due to it being within 600 feet of the one that is already going to be there. He then went over some of the findings of fact, noting that it would not be injurious and wouldn’t have an adverse effect on adjacent property.

Chairman Zimmer commented he didn’t have a drawing of the plan, at which time Mr. York passed them out which was followed by discussion of the location of their plans.

Chairman Zimmer called for the attorney’s report, and then the department reports.

Mr. York stated that the mailings were all in order, and they are free to hear this petition. He then read the attorney’s report (H.I.) into the record and advised the board of their options.
Mr. York then read into the record departmental reports (H.I.) wherein the department recommended the approval of the Development Standard Variance.

Chairman Zimmer called for questions from the board.

Mr. Knaup asked about the distance between the sign on the back lot and the bank lot, and was told it would be about a hundred feet. There was then conversation regarding the exact location of the bank on Franklin and Woodwind. Mr. York then explained that their sign is 17 feet high, below the maximum of 20 feet, but that because it is 15 square feet, not the allowed 12 square feet, they are needing the variance.

There being no further questions from the board or public comment, Chairman Zimmer called for a motion.

Mr. Knaup moved for the approval of Petition B-100-19 as outlined in the discussions, along with the findings of fact and the attorney’s report. Seconded by Ms. Janus.

The roll call vote was taken as follows:

AYE
Mr. Hook  
Mr. Knaup  
Ms. Janus  
Mr. Norvell  
Mr. Zimmer

NAY

With a roll call vote of all ayes and no nays, Petition B-110-19 was granted.

The next petition called was Petition B-101-19, Roger Potratz, requesting Development Standard Variance to allow building a new covered porch on the east side of the house, adjacent to the new entry door located at 404 Pinewood Trail.

Mr. York stated that the petitioner has requested this to be continued to the next regularly scheduled meeting. So moved by Mr. Hook and seconded by Mr. Knaup.

The roll call vote was taken as follows:

AYE
Mr. Hook  
Mr. Knaup  
Ms. Janus  
Mr. Norvell  
Mr. Zimmer

NAY

With a roll call vote of all ayes and no nays, Petition B-101-19 was moved to the March 12 meeting.

***************Next item on the agenda is “Old Business”***************

The next item of business was approval of Findings and Orders for Petition B-115-18, Mark Kotheimer. Having presented the board with a printed copy of the Findings and Orders in their
entirety, it was moved and seconded that the Findings and Orders as submitted by Mr. Hale be approved for B-115-18.

The roll call vote was taken as follows:

AYE

Mr. Hook
Mr. Knaup
Ms. Janus
Mr. Norvell
Mr. Zimmer

NAY

With a roll call vote of all ayes, motion carried, and the Findings and Orders were approved.

Next item on the agenda is “New Business”.

Mr. Hook announced that this would be his last meeting on the board, giving his gratitude to the board members for the time he has served on the board.

With no further discussion, Chairman Zimmer adjourned the meeting.

Kalen Janus
BOARD SECRETARY