

BZA MINUTES

NOVEMBER 14, 2023

Members present: Jason Hawley, Bill Davis, Don Calhoun, Jason Allen

Members absent: Jon Peacock, Drew Cleveland, Jim Hufford

Legal Representation: Jason Welch

Staff present: Debra Johnting, Area Planning Director/Recording Secretary, Rhonda Gard, Area Planning Secretary

Others present: Meeks Cockerill, Terry Dowler, Ellen Craig

Chairman Hawley: It is now slightly after seven on November 14th, 2023. I'd like to call the meeting of the Board of Zoning Appeals to order. I would like to start off by all members stating their names. My name is Jason Hawley. Don Calhoun, Bill Davis, Jason Allen. Thank you so much. Before we get started, I would like to remind everyone with the limited number of members on board the decisions tonight have to be unanimous. If you'd like to have a continuation on your petition tonight, it can be held off till next month, or at the next meeting if you would like to do so. If you do, you do have the option to express your views tonight and make your decision before the board votes, that if you'd like to withdraw at that time. With that being stated, I would like to have a motion to approve the minutes from September 19th, 2023.

B. Davis: So moved.

J. Allen: Second.

Chairman Hawley: All those in favor say aye. Aye, all those opposed. I would like to remind everyone that petitioners will have fifteen minutes to present their petition. During that time, there will be no interruptions or questions. After the presentation, the board may ask questions. Anyone wanting to speak for or against will have three minutes and then the petitioner will have an additional five minutes to answer any questions. First up, we have BZA2023-35-V for Terry Dowler. Is there anyone here that would like to speak on this proposal? If you would please, come up and state your name and address for the record. It states that you're looking to request a variance to build a carport closer to the property line than is allowed by use?

T. Dowler: And that is correct. I would like a variance.

Chairman Hawley: Your name and address please, Sir?

T. Dowler: Terry Dowler, Senior, 712 West Pearl Street, Union City, Indiana. And do I explain now?

Chairman Hawley: Yes, please go ahead and tell us what you're looking to do.

T. Dowler: I would like to have permission to put the carport closer to the property line than what the variance is right now. Due to its going up against my patio, at the house. And I'm trying to get the cover to cover a handicap van and stuff to get the lady that I work with in and out of the vehicle and out of the snow and stuff.

Chairman Hawley: Is there any questions from the board concerning the issue before us?

J. Allen: Have we heard from the neighbor, Mr. McNutt?

T. Dowler: I'm sorry?

J. Allen: Nick McNutt, I guess he is your neighbor? Have you heard from him?

T. Dowler: I have not. The last I talked to him he was getting ready to go to Florida. But I told him the letters were coming out and that's pretty much the last I talked to him.

D. Johnting: His letter didn't come back.

T. Dowler: I did talk to him prior to that. About the variance and going on closer to the line. And he said he had no problem with it, but...

J. Allen: The only other thing is. I would ask would be that, obviously, if the carport is put up the only thing I would ask is that, you're not pouring like a foundational thing? It's just going to be structural, just into the ground?

T. Dowler: It's going to go into the ground and be anchored down.

J. Allen: Just anchored in the into the grass or the gravel or whatever is there?

T. Dowler: Yes

J. Allen: Because that way, let's say if you were to move or sell the property at some point in time then it could be moved.

T. Dowler: It could be moved. I could dismantle it, or whoever can dismantle it, it will be able to be taken down, yes.

J. Allen: That way, if somebody were to buy the property later on, they couldn't just come in and like, oh, we're just going to turn this into a full-fledged garage with a foundation. That's a totally different situation.

T. Dowler: No, no foundation, no concrete whatsoever other than what will be up against at the patio, that won't be part of it.

Chairman Hawley: Essentially, essentially a quasi-temporary structure?

T. Dowler: Correct.

Chairman Hawley: Okay.

B. Davis: That's a good question that he brought up, good statement, can, if it goes forward and we vote, can we make that a stipulation for it?

J. Welch: For what?

Chairman Hawley: That it would not be permanent, not be a fixed to a foundation.

J. Welch: Just give him permission to put up a temporary carport, only as a part of the variance.

Chairman Hawley: Okay, so is that not a permanent structure? Yeah, it's not a permanent structure, right? Are there any other questions from the board? Is there anyone here else that would like to speak for or against the proposal? Seeing none, I move for roll call vote.

B. Davis: So moved.

D. Johnting: Don Calhoun, yes, Jason Hawley, yes, Bill Davis, yes, Jason Allen, yes, and Jon Peacock, Drew Cleveland and Jim Hufford are absent. Motion approved.

Chairman Hawley: Congratulations sir.

T. Dowler: Question, what do I do now as far as next step?

D. Johnting: Come see us at Area Planning and Building and get your permits.

T. Dowler: Thank you for your time.

Chairman Hawley: Thank you very much. Moving right along we have BZA2023-36-V. Frederick L. Armstrong estates, represented by Chris Lay. The variance parcel of property and residential zone to lot size less than 100% but not less than 90% of 10,000 square feet. Please state your name and address for the record.

M. Cockerill: Meeks Cockerill, 235 S Meridian Street, Winchester, Indiana.

Chairman Hawley: Have you sent notices out certified mail and return the receipts to the Area Planning office? Have you received Article V, Conduct of Hearings?

M. Cockerill: Yes.

Chairman Hawley: Would you like to tell us what you're looking for here, Sir?

M. Cockerill: So, what we have is Fred purchased the property and the historical description of that property has lots 13, 14, 15 and 16 in the Overmyer Subdivision. He wanted to parcel a portion of that off and then sell it. And he did to sell Steve Dunica. It turns out that we need a variance because we're going back to that historical description and then his house would only have 9833.45 square feet instead of the 10,000 square feet required. So, we're asking for a variance for that and it's going back to the historical description that's been in the, or on the books for many, well, since I'm going to assume since the Overmyer Subdivision was first platted. Lots 13,14 and part of 15 would then be sold to Mr. Dunica and that's under 20,000 square feet. So, if he wants to build two houses there,

he would have to come back in front of this body and get a variance for that. Or he could build one house and essentially, they could build one house now without a variance. That is what we're asking for today. And I think all the notices and everything else have come out and I do have proposed Findings of Fact that have been presented, do I present those now, Debra, or do you have a copy of them?

D. Johnting: I have a copy of them.

Chairman Hawley: So, just for my clarification, the plan is to make three additional plots out of this?

M. Cockerill: Well, it's just going back to the historical, and so it would be, yes. In essence it would be lots 13,14 and two thirds of lot 15 would be sold and then one third of lot 15 and 16 would be retained by Mr. Armstrong, and that's where his house is at.

J. Welch: The current request is just to make it two parcels.

Chairman Hawley: Okay.

J. Welch: The other parcel is going to be for one. If you split the other parcel again, then down the road there will have to be another variance.

Chairman Hawley: Okay, okay.

J. Welch: So basically, you're taking off a little bit less than 10,000 square feet and leaving 19,000 and something square feet for the other parcel. So, they're only asking at this time to take off the old parcel where the house is. Which the original, it's the original size that was needed before and it's my understanding that they later purchased the other part of the parcel later. So that's why there were two descriptions. There's one that they're asking to go back to, then the other lots were part of another description, which was purchased at a later time by the Botkins.

J. Allen: So, I'm assuming that's why that one property line is going through his house right now is way it is currently? And so, he's asking for that variance to where it's coming over?

J. Welch: Basically, what happened is that the original owner owned the small one and then they bought the large one later and they went to the courthouse and they combined into one parcel for record purposes. They just want to basically put it back to where it was. That's what they're asking for right now. And the area where the house is has never been quite 10,000 square feet. So, because they put them together, now they have to get a variance to be able to split it back out to the original size.

M. Cockerill: If he had never combined the parcels, we wouldn't be here today.

J. Welch: Correct.

Chairman Hawley: Okay. Are there any other questions that the board may have? Is there anyone else here that would like to speak in favor or against the proposal?

M Cockerill: Ellen's here, I don't know if you want to speak?

Chairman Hawley: And if you'd like to speak, could you please come up and state your name and address for the record?

M. Cockerill: Do you want me to move Ellen so you can have this chair? I don't want to be intimidating to you, but...

E. Craig: You're not intimating to me. Your dad maybe, but not you. No, I got the letter.

Chairman Hawley: Would you just say your name and address?

E. Craig: I live on Lawn Street, so I've been right across from, oh I'm Ellen Craig. Right. I've lived there fifty years with an empty lot across the street. So, I was more curious than anything else. I wasn't sure. And then when Fred died, I was like, well, the other question was is this even happening? And I called today to find that out and they said yes. I knew a power of attorney ended with the death. But Chris is also, as I've been told, tonight, the executor of that estate so, it's all still going on. I just wanted to know what the plan was. I know that the house that's at the end there on Clem Street, that would be backing up to that. That just simply has no space behind it, not even an inch. I think the garage is almost, really was built on this empty plot and I know that from Janice Botkin, who was a neighbor for a long time and owned this. So, I just was curious, And what Meeks said was, yeah I think they would really be interested in having a little more yard if they could. And they would need to buy it from Steve if they could. Is that right? Steve Dunica?

M. Cockerill: Yes.

E. Craig: And is that going to change anything, though, if he was still wanting to build? So, the one house...

J. Welch: If they're going to split that parcel in any way, they'll have to have a survey done. And they'll have to get permission from the from the Council if they're going to go below 10,000 square feet. So, it's likely that if anything's going to be sold off of that there will have to be a survey done and someone will have to come before the BZA. And there will have to be another hearing, before anything can be can be split with that other parcel.

E. Craig: Well, they just had a new baby, just in the last week. So, they're not here tonight. I didn't know whether they would be. They did get a letter, but I yeah, so they would have to pursue that with Steve if he's willing and it would go through here again. I think that answers the things I had wondered about. The neighborhood is changing.

Chairman Hawley: Thank you very much. Are there any other questions that the board may have? Seeing no others, I request a roll call vote.

B. Davis: So moved.

J. Allen: Second.

D. Johnting: Jason Hawley, yes, Bill Davis, yes, Jason Allen yes, Don Calhoun, yes. Motion approved. Jim Hufford, Jon Peacock and Drew Cleveland are absent.

Chairman Hawley: Thank you so much. Moving on with old business. We will have to table the minutes from October 17th, 2023, they're not completely ready for review yet. Is there any other business that we need to address? Seeing none, and moving on to new business, any new business that we needed to address? Seeing none, do we have reports from officers committee and staff? Are we meeting next month?

D. Johnting: No.

Chairman Hawley: No meeting next month, so we are out until January?

D. Johnting: I know you guys really want to, but no. No meeting until January.

Chairman Hawley: Motion to adjourn. Thank you very much, ladies and gentlemen. Have a wonderful evening. Don't forget to turn in your signed letters to Deb for Findings of Fact.

Chairman, Jason Hawley

Debra Johnting, Recording Secretary

Vice Chairman, Bill Davis