

BZA MINUTES

APRIL 16, 2024

Members present: Jason Hawley, Bill Davis, Don Calhoun, Jason Allen, Jim Hufford, Drew Cleveland

Members absent: Jon Peacock

Legal Representation: Jason Welch

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

Others present: Ed Thornburg

Chairman Hawley: Alright. Good evening. It is 7 o'clock on April 16th, 2024. This is the meeting of the Board of Zoning Appeals. I would like to start off by asking each board member to say their name for record so it would make it easier if something ever comes up. My name is Jason Hawley. Bill Davis, Jim Hufford, Don Calhoun, Drew Cleveland, Jason Allen. With that out of the way, I'd like to call the hearing to order. First on agenda, we have the approval of the minutes from March 19th, 2024. We have copies of those. Is there any questions, comments or concerns?

D. Cleveland: I move we accept them.

J. Allen: Second.

Chairman Hawley: All those in favor of accepting the minutes as provided aye, all those opposed? Motion has been carried. Real quick, petitioners will have fifteen minutes to present their petitions. During that time there will be no interruptions or questions. After the presentation, the board may ask questions. Anyone wanting to speak for against will have three minutes each. And then the petitioner will have an additional five minutes to respond to comments. With that all out of the way, we'll get started. First on the agenda we have BZA2024-8-V. Bill Pearson, on behalf of Lynn Friends Church. Is there someone here that would like to speak on this? Please approach the table, and state your name and address for the record please.

B. Pearson: Bill Pearson. Lynn Friends Church.

Chairman Hawley: And your address is, Sir?

B. Pearson: 373 W 850 S, Lynn, Indiana.

Chairman Hawley: And have you sent out notices, certified mail and returned the receipts to the Area Planning Office?

B. Pearson: Yes.

Chairman Hawley: Have you received Article V, Conduct of Hearings?

B. Pearson: Yes.

Chairman Hawley: Okay, tell us what you're looking to do, Sir.

B. Pearson: We're thinking about putting an LED electric sign in front of our church. We have a Lynn Friends on the top and then we'll have so we can have our information about church, you know, and different activities from the church on here. And there's another church south of us that has one too, the Nazarene Church has one also. And it will be located right on US 27, so it would be on the south side of Lynn. Our church is kind of hidden behind the houses, a lot of people miss it. We'll have a wedding or something, at our church, and they say, we can't find your church. Because we can't see it. Because our other sign is a brick sign. Has these little letters you have to put on it, and it's facing the same parallel to the road, so people don't see it. And we'd like to face ours the opposite way, so you can see it from both sides.

D. Johnting: Okay, I understand now, you are going to turn the base the other way. Much better.

B. Pearson: Yes. And it shouldn't really affect anybody, our parking lot is on one side, and there is a house to the south, and they might have some issues with it, but otherwise we are away from the others.

D. Johnting: I didn't hear from anyone. It's quite a way from their house.

B. Pearson: And we would put this sign about, we can go about 20 feet further toward 27 and still be within our legal setback. We sit way back from the road. We'd like to set it just a little bit, maybe halfway out to where it's at, so that the by-passers can see it. You know, I think it's 30 mile an hour speed limit there. So, they'll be able to see it, you know. So. That's all.

Chairman Hawley: So, I'm just going to go with my standard questions I have. Are you going to have automatic dimming?

B. Pearson: Yes. And it also has Wi-Fi, so we'll be able to control it from our phones, and from the computers there at the church.

Chairman Hawley: And more also about not having the messages flash real quickly. I don't want to try to give anybody a seizure or anything like that.

B. Pearson: Yeah. Well, we have one down south that has that has red and blue and it flashes all the time. Everybody thinks it's the police. You know, so they try to avoid it or you know. So, I know ours should be more like the 4-H one, and you can actually read the 4H Fair sign. It's slow. It doesn't run, in a lot of them they run so fast you can't really read the message, you can't tell what it's really saying it just stays there in big prints and not put a lot of information. People can read them a lot better, and when we put that one the fairgrounds, people, there was a salesman went by and he stopped at Winchester, got the number of the fairgrounds called and said that's the only sign I can read. Period. So, I go all over the state of Indiana, and I can read yours, so, we want to kind of

copy that one. And it has a lot to do with who runs it, not so much the sign, because the signs can do all kinds of stuff.

D. Johnting: The 4-H Fair sign would do all that, they just don't.

B. Pearson: Yeah, yeah. We're going to try to imitate them, you know? So, we can actually read it. The one at the school, Randolph Southern School, it's smaller and I can't read it. And I'm going by it and I can't read it. But, our sign would be two feet four inches wide and it'll be five foot six inches long. So, it's not real big, but it's enough for what we want to do.

Chairman Hawley: Are there any questions from the board? Is there anyone here that would like to speak for or against the proposal? With that case, I motion that we have a roll call vote.

B. Davis: So moved.

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

B. Pearson: Thank you. We appreciate it very much.

Chairman Hawley: Alright. Next on our agenda, we have BZA2024-9-V, Ron and Kelli Braun. Requesting to build a pole barn taller than their home. Please state your name and address the record.

K. Braun: Kelli Braun, and it's 1784 North 950 West, Parker City, Indiana, 47368.

Chairman Hawley: And have you sent out certified mail and returned the receipts to the Area Planning Office?

K. Braun: Yes.

Chairman Hawley: Have you received Article V, Conduct of Hearings?

K. Braun: Yes.

J. Hawley: Okay, why don't you tell us what you're trying to do?

B. Davis: You can have a seat, you don't have to stand.

K. Braun: It's okay. I'm not going to be up here for long, am I? My husband made me come. He's the one that wants the barn. What's wrong with this picture, fellas? Maybe he thought you'd be easier on me I guess? We have an RV that is 24 foot tall and we would like to put up a pole barn that is 24 foot to accommodate that. Our house highest pitch is, we believe 21 and 22. So it would be about two feet higher than our than our home. And all six neighbors have no problem with it.

D. Johnting: I spoke to one yesterday, she was just checking things out, she didn't have a problem with it.

K. Braun: We have one that has an RV that said, only if you make it big enough for mine. We are like we like you, but not enough to double our pole barn specs. We're not going to do that.

J. Hawley: So, is this pole barn going to have a concrete slab?

K. Braun: Yes. We have a contractor coming and he will do the slab. With fourteen foot side walls and an overhang to one side for a porch area. We went ahead and had a survey done just because we've lived there for 30 years. And the neighbor that the barn was going up against, have lived there for 37 years. You know, we kind of thought the line was here, they thought it was there, but it's been so long, so we thought, this is going to be a permanent structure. We have a portable shed there, so I said we're going to pay the money and get the survey. So, we went ahead and had Richard Mote do a survey and he marked the lines so there will be no discrepancy. You know when our children go to sell our house and they say you have to move that 24 by 40 over there...lol.

J. Hawley: And it meets all the other requirements besides height?

K. Braun: Yes.

D. Johnting: The bad thing is they had to come to a hearing to have a barn that is taller, but the good thing is that they only have to be five foot from the line because they are in residential.

K. Braun: And she told us we didn't have to have the survey, she gave me the map, but after talking to Richard Mote, he's like I've been back in your subdivision before and there's a little discrepancy so we decided to go ahead and have the survey you know. So we did. So we know exactly where our property lines are, and then we'll be five foot from the line.

J. Hawley: Are there any questions that the board has on this petition? Is there anyone else in the audience who would like to speak for or against the proposal?

K. Braun: If my son said anything I'm gonna... [laughter].

J. Hawley: Alright, since I see no other questions or concerns. I motion for a roll call vote.

J. Allen: Second.

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

K. Braun: Thank you so much. Thank you.

J. Hawley: Next on our agenda, we have BZA2024-10-V, Rhett and Kailey Braun. A request to build a garage closer to the property line than the UZO allows. Please state your name and address for the record, Sir.

R. Braun: My address is 9513 West 400 North, Farmland.

J. Hawley: Have you sent out certified mail and returned the receipts to the Area Planning Office?

R. Braun: Yes.

J. Hawley: Have you received Article V, Conduct of Hearings?

R. Braun: Yes.

J. Hawley: Okay, why don't you tell us what you are looking for and how we can help you out?

R. Braun: We are looking to build a 24 foot x 36 foot pole barn with an eight foot lean-to. It's going to be on the east side behind our house. On that corner of the property. We just live on an acre lot out in the county by the golf course, and if we did it on the west side of the property it would be right next to the golf course. Not an ideal spot, and our garage is on the east side. So, we're going to put the driveway in on the east side of our house there. For more storage, I've got two kids that are growing, and so we are running out of storage in the garage and also I have equipment from my work that I sometimes have to bring home and it'd be nice to, you know, to store that in the barn sometimes.

J. Hawley: Was there any word from any of neighbors?

R. Braun: So, I talked to the farmer on the east side. And he had no issues, he said he didn't care at all. We have a portable shed there right now, so it's to replace that. So, I'd just like to put my boat and my ATV in there.

J. Hawley: Any other questions the board has?

J. Allen: Are you jealous that your barn is smaller than your moms? [Laughter]

R. Braun: We don't have enough room to make it any bigger. It's just big enough so we can put some stuff in it.

D. Calhoun: I have got a little issue with the five-foot setback, do you have room to set it ten foot and make everything work? The five foot, I mean with large equipment and all that, it's not very far from the edge of the field, that's my only concern. If you could move it to ten feet.

R. Braun: Yeah, it would be, so ten feet would move it more behind the house. So, our driveway would have to go around the house. My wife probably wouldn't be happy because it would block the view behind the house. So, right now we have a ten by sixteen shed there, and it's probably six or seven feet off the property line, and that's probably where we are going to put the barn in probably about six, to six and a half feet off. Not exactly five feet, but probably it's going to be six to six and a half. I was just asking for five just...

D. Calhoun: Okay.

J. Hawley: Yeah, I mean, so you can understand his point though, I mean, yeah, especially when harvest time comes around, those are, it does take up a chunk of change.

R. Braun: Right, no, I understand.

D. Johnting: But the closer you get to the other side, you have golf balls to deal with and that is spring, summer and fall.

R. Braun: Yeah, yeah. And our garage and driveway is on the east side of our house. And like I said, we have a pretty big portable shed there now. It's basically going to replace it. It's probably six or seven feet off the property line right now.

D. Johnting: So, if they approve five you are not obligated to do five.

R. Braun: Right, yeah, if we could put it on the other side, you know...

D. Calhoun: Where you are putting it, that's a good spot for it, it's just the five feet I'm just a little concerned that it's too close to the property line.

R. Braun: You know, after measuring back there and if you put anything further over it would be behind the house, and with the drive back there with equipment and stuff.

D. Calhoun: Okay.

J. Hawley: Any other questions from the board? Is there anyone here that would like to speak for or against the proposal? Since I see none, I motion for a roll call vote.

B. Davis: Second.

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

J. Hawley: Congratulations, sir.

R. Braun: Thank you.

J. Hawley: Alright, next we have BZA2024-11-V. Ted Hendrickson on behalf of Three Oaks Finishers, LLC. Request to reduce the acreage around two and a half hog barns to ten acres. Would you please state your name and address for the record please, Sir?

T. Hendrickson: Ted Hendrickson, 1062 South 1000 West, Farmland, Indiana.

J. Hawley: Have you sent out notices by certified mail and returned the receipts to the Area Planning Office?

T. Hendrickson: Yes.

J. Hawley: Have you received Article V, Conduct of Hearings?

T. Hendrickson: Yes.

J. Hawley: Okay, why don't you tell us what you are looking to do.

T. Hendrickson: Due to our estate planning, and the fact that I turn 70 this summer, I have got to make some different plans for the barns. Our children have let us know that they are not interested, which was what our plan was, but that has changed. We do have a young relative that in time will be showing interest in it. So, I would like to work in that direction. The cost of the forty acres would be almost equivalent to what the hog farms themselves cost. So, it's almost, would double the cost and so we are looking for the variance to reduce. You see on there the barns are located in a woods. They're all completely surrounded by woods. That's 13 plus a little bit, I think acres of woods there. And so, the plan is to let the barns go with the woods and so that would give them a ten-acre amount plus some extra. So, we're looking for that variance to help with our estate planning. We plan on staying in the house. We're going to live there, and the driveway will come still just here. The barns are not going anywhere.

D. Cleveland: You are not going to have a separate driveway for this parcel?

T. Hendrickson: Nope. Nope.

J. Welch: Are you going to put this under different ownership?

T. Hendrickson: Yes, that parcel will be eventually put under a different ownership, yes. But it will have to have right of way from the driveway, you know, with the driveway. We'll have to give them right of way to get through there.

J. Welch: You'll have to have road frontage to that area. If there's going to be a split of that nature you'll have to have road frontage that'll go to the woods if you are going to put it under different ownership and split it off. That's going to be an issue for you down the road.

T. Hendrickson: Okay, so, okay.

J. Welch: Otherwise it sounds like you're just splitting it off so you can, either put more on it or give the ground to your kids like anybody else in the district. If you're splitting it off to sell it to somebody else, and put it into other ownership you'd still have to meet all the other requirements of the zoning ordinance. Is that making sense, do you understand what I'm saying?

T. Hendrickson: Oh, right. So then there has to be so much road frontage for that property.

J. Welch: Correct.

T. Hendrickson: Okay, and what's that amount?

D. Johnting: Forty feet.

J. Welch: At least forty feet.

J. Welch: You can't just put it off and have it in the middle. That's created problems in the past before. If you're going to have it surveyed off, you want to go ahead and have, if it's approved, you are going to need to have road frontage enough for a driveway.

T. Hendrickson: Okay, and that would not, thinking about that, it would that would not be a problem because to the south of the house, in fact I that considered that before, but the south of the house goes right straight back, you know, to the woods. What adjoins the yard. So that could easily be settled.

J. Welch: So, I guess what I am saying, even if they say you can reduce it to the forty, they won't be able to approve the split unless you can meet all the other requirements. So, you want to make sure those are met, including that road frontage and anything else that might apply to it.

T. Hendrickson: Okay.

J. Allen: Is that mainly just so that doesn't land lock him back there? So, say if they pass away and their property goes away and say the new owner of your property says you're not allowed to use that driveway, then you need to have your own driveway.

J. Welch: You can't land lock it.

J. Allen: Yes, that's good.

T. Hendrickson: And that would not be difficult to do. With the way that lays we can do that.

J. Welch: I just wanted to make you aware before you get your survey done that you have to do that.

T. Hendrickson: Yes, that makes sense.

D. Cleveland: So as long as it was an alleyway, or forty feet wide to get back to the barns?

J. Welch: They would have to have enough road frontage to meet the other requirements of the UZO. They don't apply to what he's asking for necessarily. He's just asking to reduce the acreage. But to split this parcel off to other ownership, he's going to have to meet all the other requirements.

D. Cleveland: Which was forty feet?

J. Hufford: But that would be a separate issue from this though, right?

J. Welch: Yes, but if this got approved and he tried to split it and this was landlocked they wouldn't let him split it, then he would have to get another survey done.

J. Hawley: And it turns into to a whole other issue.

D. Johnting: On that east property, you could just cut a forty-foot lane and add that to the parcel. You wouldn't need to develop the driveway, the land just needs to be there so that it can be developed whenever you do split it. Then the new owner can worry about putting in a driveway. And they would never be coming through your property so you would never have to worry about that. You could force an easement during a parcel split but that does not account for the forty-foot road frontage.

J. Welch: It's better just to do it now.



T. Hendrickson: Yeah.

J. Hawley: Especially if you're talking about doing inheritance and doing a trust and everything you don't want to wind up burdening somebody else with trying to figure it all out.

T. Hendrickson: Right. It's just my kids, though, [laughter] that's okay. But yeah, that's good.

J. Welch: Just a suggestion, not legal advice.

T. Hendrickson: That's a good suggestion. So, then we wouldn't have to, I mean, it could be laid off in the survey, but then if, I mean they could continue to use our driveway as long as we're alive, whatever. And then, something happens to us then they would have the ability run that across there.

J. Welch: Yes, it just has to be included with that parcel.

T. Hendrickson: Yes, yes.

D. Johnting: It doesn't have to be developed, it just has to be included.

T. Hendrickson: Yes. Okay, that sounds great.

J. Hawley: Now, back to the original request of reducing the ten acres from the forty? I guess this is honestly just me. I don't speak for anybody other than me. Please let that be known. I'm just concerned about changing and setting a precedent for that. I know we've got enough CAFO fights and that's been a long drawn out thing. I always get concerned about, well, we did it for him, why not us? And then if it's ten, why not five? I mean, and that that's just me. I suppose anybody can speak to that. That's just my personal take.

D. Johnting: Unfortunately, they put that in there that you can vary down to ten, no less than ten. And there were a lot of reasons at that time and I wasn't in the meetings, and they didn't put the reasons in there with it. The only thing we have is Article XVIII on Variances. And so, with a variance taken vary down to ten.

J. Welch: You just have to meet all of the requirements on the findings.

D. Johnting: Yes, you can fill out your ballot, and feel that it meets the intent of the variance. I've heard all kinds of things about why that was done, and it was for estate planning, to let you kids take over and farm it without buying the entire forty acres, to give it to multiple siblings. Like you said, it would double the cost to buy the barns and the forty acres. If you have one sibling that wants it and two that don't, then you've got to buy them out at a huge amount. More than when they wrote this. It would be difficult to put another right CAFO there, after getting a variance. And the growers don't want another CAFO within that forty-acre parcel either.

T. Hendrickson: Yes, and we've got the we got the distance setback too. This was grandfathered in. It's been there for thirty years. I think I have a neighbor, and there is a distance that we can't build within certain distance of houses anyway. And I'm not sure, but that may take out that ground

anyway. Which anybody on the ground would be crazy to take out that ground in the back of that field anyway. But I also did get the potential crop guy that's farming it, and he said that if he ever got control of that ground he wouldn't have any problem at all signing something that said that he would never put a CAFO on that forty acres.

D. Johnting: And for biosecurity the other growers don't want CAFO's that close together.

J. Hawley: Right, oh yeah, I was just speaking of my concern. Yeah, I don't know if I was the only one. Are there any other questions from the board? Is there one in the audience would like to speak for or against the proposal? Now, Mr. Thornburg, I thought I saw your hand up?

E. Thornburg: I was going to ask the question, to be sure that he didn't have to build the driveway on the forty-foot easement. I'm familiar with the property and there's no issues there at all.

J. Hawley: Thank you, Ed. I appreciate it as always.

D. Johnting: I told Ed earlier that we depended on him.

J. Hawley: If there are no other questions or concerns, I motion for a roll call vote.

D. Cleveland: Second.

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

J. Hawley: Congratulations, Sir.

T. Hendrickson: Thank you.

J. Hawley: Be careful with that driveway.

T. Hendrickson: Yeah, okay, that's great advice.

J. Hawley: Moving on, is there any old/new business needs come before the board. Seeing none. Reports of officers, committees and staff. I see none. I motion to adjourn tonight's meeting.

B. Davis: Second.

D. Johnting: We do have a meeting next month.

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Chairman, Jason Hawley

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Debra Johnting, Recording Secretary

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Vice Chairman, Bill Davis