

BZA MINUTES

APRIL 22, 2025

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

Members absent: None

Legal Representation: Jason Welch

Staff present: Debra Johnting, Area Planning Director and Kristi Halloran, Recording Secretary

Others present: Sam Petty, Art Kirtley, Randy Younger, Ed Thornburg, Tom Myers, Suzan Myers

Chairman Hawley: All right. Good evening. I would like to call to order the Board of Zoning Appeals. Tonight is April 22, 2025. First off, for the record, I'd like to have each board member say their name so we have the record of those. My name is Jason Hawley, Bill Davis, Don Calhoun, Jim Hufford, Jason Allen, Drew Cleveland, Jon Peacock. Thank you very much gentlemen. First order of business, has everybody had a chance to look over the minutes from the previous meeting.

Vice Chairman Davis: I'll make a motion to approve as presented.

J. Allen: Second.

Chairman Hawley: Motion is to approve the minutes as presented. All those in favor? Aye. All those opposed? Motion is carried. Before we get started tonight I would like to remind everyone petitioners will have fifteen minutes to present their petitions. During this time, there will be no interruptions or questions. After the petitions the board may ask questions. Anyone wanting to speak for or against will have three minutes each and then the petitioner will have an additional five minutes to respond to the committee. So with that out of the way I'd like to get started by calling up our first case for the evening, BZA2025-9-V, Sam Petty representative of NLBC for the Town of Lynn. It looks like it's a request for variance to build the cell tower closer to the property line than is allowed. Is there anyone here that would like to speak with this proposal?

S. Petty: I will.

Chairman Hawley: Please come forward and state your name and address for the record.

S. Petty: Sam Petty, New Lisbon Broadband Communications, 6369 East Dublin Pike, New Lisbon, Indiana.

Chairman Hawley: OK, have you sent out certified mail and returned receipts to Area Planning?

S. Petty: Yes.

Chairman Hawley: Have you received the Article V Conduct of Hearing?

S. Petty: Yes.

Chairman Hawley: Why don't you tell the board what you're looking to do tonight, sir.

S. Petty: So what we're looking to do tonight is construct a new tower 190 feet. That's just under the FCC requirements to require lighting, pinging, etc. It is a commercially engineered tower to support the equipment that we proposed to put on it, such as telecommunications for broadband deployment. Currently we have over 212 subscribers that we serve in the Lynn area. With the new water tower being built we are not allowed to attach to the new tower at the height that we are required to continue to serve the customers that we serve in that community. So we've proposed to build a new tower that can continue to serve those customers and also additional customers as well. The tower is on the property line of the Owens. We have met with Mr. and Mrs. Owens. They are comfortable with the tower location and also signed a setback agreement that suggests the tower is okay with the encroachment on their property. So we've also got support letters with the Town of Lynn and also with the Lions Club as they have a sublease on that property. The tower will support approximately 900 customers in the area. We will invest a \$165,000 to build the tower and then also invest three quarters of a million dollars of wireless technology to increase broadband in the community. So we want to continue to support the community as we have been. Without building this new tower, we will not be able to do so. We've exhausted our resources to build from a capital perspective of new fiber to deploy to other locations. None of those locations are practical for us to continue to serve the same customers as we are today. So that's the purpose of the tower to be where it's at, but to continue service with our current subscribers that we have today. We provided a GIS map that also shows the specific location of where it should be structured if it's approved. In the rear of the baseball fields there that's also seen as where the Owens property conjoins. They also own the parcel there to the east side that's seen in the GIS imagery. So it's just the one setback that would be basically argued as not following the protocol for the necessary requirements for the setback of the tower. The tower will include safety protocol to limit and restrict access to anybody who is unauthorized to be in the area. We're going to put an eight foot fence around it. Also have a small electronic scanner at the base of the fence that would support our equipment to certain wireless radios so. Very small footprint. The tower is going to cover about a 25 feet by 25 feet small radius of the actual footprint that the land it will occupy. Again it's a 190 feet tower. So it will, the fall back space is seen also impacted as well to show what the fall radius would be if that were to occur. The tower will be insured on our company policy that will include bodily injury and also property damage as well. So we'll make sure if in the event that the tower were to fall or this tower, obviously we would clean that up within 90 days or less so. That would be in worst case scenario. We do not expect any of this to occur. The tower is freestanding so it's non-guide. So within that 25 feet by 25 feet area there'll be no obstructions outside of that tower location. And again, just to continue the service of what we've got now to be able to continue to serve the customers in the area with the current broadband plan that we have in place.

Chairman Hawley: Are there any questions from the board at this time?

J. Allen: The only thing I would ask is there going to be an easement road to that thing to service if you need to on their properties to get to it?

S. Petty: We weren't planning on putting an easement road to it once the tower is up, it will be less than five percent than any of my technicians or employees will be on site. So once that tower would be stood up then we would basically have no access or no purpose to get back to that tower. If other than in the event of a lightning storm or something that affected the equipment on the tower. So very, very limited, if not less than five percent time that we would be at that tower once the construction would be done.

D. Calhoun: Have you considered leasing any spots out on the tower?

S. Petty: Yes. So this tower is engineered to host additional folks. I've got some resources and some electric cooperatives. We saw the damage of the tornado last year and talked to Whitewater Valley's REMC, their two-way radios were being able to communicate with the linemen during the storm were affected, talked to them about putting their equipment on our tower as well, give an increase that kind of level of communications. So I'm working with others that may be beneficial from this tower attachment as well that don't really have that ability.

Chairman Hawley: Are there any other questions from the board this evening? Seeing none, I will open it up to any members from the audience would like to speak in favor or against the proposal. Having seen none, I motion for roll call vote.

Vice Chairman Davis: Second.

K. Halloran: Okay. Bill Davis, yes. Jason Allen, yes. Jon Peacock, yes. Drew Cleveland, yes. Don Calhoun, yes. Jim Hufford, yes. Jason Hawley, yes. Motion passes.

Chairman Hawley: Yes, congratulations.

S. Petty: Thank you, sir. Thank you all very much.

Chairman Hawley: All right. Next we have BZA2025-11-SP, Randy Younger. Request replacement mobile home in residential. Is there anyone here that would like to speak for this proposal this evening. Please, sir, state your name and address for the record.

R. Younger: Randy Younger, 801 West Church Street, Lynn, Indiana.

Chairman Hawley: Have you sent out notice and certified mail and return the receipts to Area Planning?

R. Younger: Yes.

Chairman Hawley: Have we received Article V Conduct of Hearing?

R. Younger: Yes

Chairman Hawley: Please tell us sir what you're looking to have done tonight?

R. Younger: So currently there is a single wide trailer on the property. Think it shoots in at six something square foot. The one I'm trying to put in is a little under the 950 that is supposed to be, I think it shoots in at 884. So we're trying to replace it. It has been empty for probably ten years plus. All the windows are busted out of it. Anyway, there's all kinds of rodents and stuff jumping in.

D. Johnting: I have some pictures here.

R. Younger: So we're just looking to put another trailer in place of it to make it properly.

Chairman Hawley: Let's just make sure we're taking these one at a time since we've got two here. I know they're both concerning this situation. The first one is to replace the mobile home on the residence and then for the variance. So let's stick with the first one on the docket about actually replacing the mobile home.

R. Younger: Okay. So the one that we're going to put in there shoots in by 884. I think 884.4 or something like that.

Chairman Hawley: So first off, your plan is just to replace an existing mobile home list and new mobile, okay.

R. Younger: Yes.

Chairman Hawley: Alright, based strictly on that, because we do have a zoning for that allotment alone, are there any questions from the board keeping in mind that we're just talking discussing right now about the replacement of the mobile home in residential? Do you have any questions? Seeing none, do we have anyone in the audience who would like to speak in favor or against the proposal? Seeing none.

D. Johnting: I did have one neighbor call just to ask to make sure it was going to be new and he's thrilled.

Chairman Hawley: Okay.

D. Johnting: It has been empty for a long time and it's just been...

Chairman Hawley: Okay, so were there any other concerns that the board may have about allowing a trailer to be replaced with another trailer in residential?

Chairman Hawley: Seeing none I motion for a roll call vote.

D. Cleveland: Second.

K. Halloran: Jason Allen, yes. Jon Peacock, yes. Drew Cleveland, yes. Don Calhoun, yes. Jim Hufford, yes. Jason Hawley, yes. Bill Davis, yes.

Chairman Hawley: All right, we're moving on to our next situation, which also concerns Mr. Younger is BZA2025-12-V. Same situation but I'll ask anyway just for the record, have you sent out notices of certified mail and return receipt to Area Planning?

R. Younger: Yes.

Chairman Hawley: Have you received Article V Conduct of Hearing?

R. Younger: Yes.

Chairman Hawley: From what I understand, this is a request to have a variance to put a mobile home smaller than the required 950 square feet.

R. Younger: Yes.

Chairman Hawley: Is there anything you would like to add additionally about this information? Kind of let the board know for the record what it is you're looking to do.

R. Younger: Well, main reason the only other trailers available is like 40-50,000 and this one kind of fits the property. This one still going the one coming in is going to be ten foot longer than the one now there's already a porch poured on there and steps, it's going to fit perfect for the property.

Chairman Hawley: And with the neighbors request, I assume it's going to be a newer trailer.

R. Younger: Yes, it's brand new. It's from D and J Homes.

Chairman Hawley: Okay. Are there any questions about this proposal from them the board?

J. Allen: The only thing I would ask, I don't know if it's on the picture or not? Is that a block foundation on the existing.

R. Younger: It's under, but it's not actually sitting on it. They just put the block up after they set the trailer.

J. Allen: So it's not mortared, it's not concreted in.

R. Younger: They probably mortared them together, but there's probably no footer or nothing under.

J. Allen: So that's all going away.

R. Younger: That'll go away. They'll just come put skirting on.

J. Allen: Okay, I was curious if you're going to have like the trailer is going to have to fit on that foundation.

R. Younger: Yeah, that all will be taken out.

J. Peacock: So why is there a 950 foot minimum? Am I understanding that right? There's a 950 square foot minimum? Why is that?

J. Welch: The smallest home you're allowed to build is 950 square feet per the zoning ordinance. It's just what the requirement is.

D. Johnting: It's been that way for thirty years and generally, the only time we've ever seen a variance is to a mobile home. This one is so close, it still has three bedrooms, two baths. And it's brand new. A lot of times they're one or two bedrooms. And they want 500 or 600 square feet. But. I mean, I guess. It's the same as a ten foot side setback in residential and fifteen out in the country.

J. Peacock: And what's interesting to me, they make a business out of tiny houses.

D. Johnting: Right, they do.

J. Peacock: So why do we have a minimum that's a lot bigger than those tiny houses that you see them selling.

J. Welch: You don't see any around here do you.

J. Peacock: No, you don't.

J. Welch: You would if they were allowed.

D. Johnting: The minimum is like twelve hundred square feet, much larger. They allow these in their ordinances, they'll allow them in the tiny home community.

J. Welch: You'd have to change the zoning ordinance.

Chairman Hawley: I think it also avoids people like having a broke down RV and just saying this is my residence.

D. Johnting: And the temptation is to the mother-in-law houses everyone's on board with that. Just picture the strain on traffic, parking, sewage, water, school buses, everything. Every house on these streets coming in here had the house in the front and the tiny house in the back. For like the mother-in-law house or the rental house or whatever. It doubles everything. A lot of people don't want to live in them. Solely live them, they want them as like for someone else to live in on their property as what we usually get and they do require their own septic and not well, but their own septic, even if it's just one bedroom. That's another reason that we don't see.

Chairman Hawley: Are there any other questions that the Board may have tonight for the proposal? Is there anyone in the audience who would like to speak for or against the proposal this evening? Seeing none I motion for a roll call vote.

D. Cleveland: Second.

K. Halloran: Jon Peacock, yes. Drew Cleveland, yes. Don Calhoun, yes. Jim Hufford, yes. Jason Hawley, yes. Bill Davis, yes. Jason Allen, yes.

Chairman Hawley: Congratulations.

R. Younger: Thanks.

Chairman Hawley: Next on the agenda, is there any old business that needs to be addressed? Is there any new business that needs to be addressed? Reports on officers, committee and staff? I see this wonderful little note here that says there will be no hearing in May. With nothing else before us I motion that we adjourn BZA for this evening.

J. Allen: Second.

Chairman Hawley: Thanks very much ladies and gentlemen.

Chairman, Jason Hawley

Kristi Halloran, Recording Secretary

Vice Chairman, Bill Davis