

BZA MINUTES

JUNE 20, 2023

Members present: Jason Hawley, Bill Davis, Jon Peacock, Don Calhoun, Jim Hufford

Members absent: Jason Allen, Drew Cleveland

Legal Representation: Jason Welch

Staff present: Debra Johnting, Area Planning Director and Recording Secretary, Rhonda Gard, Administrative Assistant

Others present: Robert Orr, Rosalie Orr, E. Thornburg, Melissa Sloniker, Brad Sloniker, Steve Wilburn, Jerry Mills, John Myers, Tom Govin

Chairman Hawley: It is now 7 O'clock, my name is Jason Hawley, and I am the Chairman of the Board of Zoning Appeals. Today's date is June 20, 2023. First on the agenda is to approve the minutes from our last meeting on May 16, 2023. Has everybody here had a chance to look over the minutes for themselves? I'd like to have a motion that we accept the minutes as presented.

J. Hufford: So made.

Chairman Hawley: All those in favor say aye, all those opposed no, motion is carried. We have a few petitioners on the docket for tonight. Just so we have everything clear for those who are taking translation for the record if every member of the board would please state their name clearly so we will know who is speaking. Don Calhoun, Jim Hufford, Bill Davis, Jon Peacock. Thank you very much. As for the rules tonight, petitioners will have fifteen minutes to present their petition. During this time there will be no interruptions or questions. After the presentation, the board may ask questions. After that anyone wanting to speak for or against will have three minutes. Then the petitioner will have five additional minutes to respond to those questions. Just so we are all made clear of the rules that we have here tonight. We have four petitions on the docket for tonight. First up is BZA2023-21-V, John Myers. Would you please come up to the table, and state your name and address for the record.

D. Johnting: Sorry for the interruption, but is there anyone here for Patricia Rains? The Patricia Rains hearing will be postponed until next month.

Chairman Hawley: I'm sorry sir, please go ahead.

J. Myers: John Myers, 1362 East 300 South, Winchester.

Chairman Hawley: Okay, it says that you are requesting a variance for new home fifteen feet from rear of property line instead of thirty-five feet.

J. Myers: Yes, we own both properties, the front one we bought under one of our business's for a rental property and it was a bad house so we had it demo'd. And our daughter is going to build a house there on that property which is 1306 East 300 South. The property is not real deep. And we

wanted to set it back enough to get it 45 feet from the center of the road instead of 41 feet. And that's what the setback called for.

Chairman Hawley: It doesn't look like you are asking for a lot here. Are there any questions from the board members?

J. Peacock: So, John, she wants to put her house closer to your property?

J. Myers: Yes. And we own both properties, it's just going to save us, since it's in the family, surveying some off so we can save that cost. We don't care how close to our property it is and we'd like to line it up with the existing driveway. That way the foundation will be right on the property line, basically.

Chairman Hawley: Are there any other questions from board members? Is there anyone from the public that would like to speak either in favor or against the proposal tonight? I see no one doing so. So, I will take a roll call vote.

J. Welch: Jason, I did want to remind everyone to make sure you go through the ballot form and fill that out before you vote to make sure that it is the decision that is called by the rules. That will prepare you to vote, and if any board member has any question about any of those, that would be a good time to discuss those prior to voting.

Chairman Hawley: Thank you for that counsel Mr. Welch.

B. Davis: I will make a motion to take a vote.

J. Hawley: Second.

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

J. Myers: Thank you very much.

Chairman Hawley: You are welcome, have a wonderful evening. Next petition is BZA2023-23-SP&V. Robert Orr is requesting a Special Exception to put double wide home in a residential zone, and a variance to be closer to the front setback on Walnut Street. Remember this is two separate variances that we are looking at. Would you please state your names and address for the record.

R. Orr: Robert Orr, 511 North Portland Street, Ridgeville. Rosalee Orr.

Chairman Hawley: So, let's start off, what are you looking to do? And what can we do for you?

R. Orr: Well, I've owned this lot, it's on the corner, it's a corner lot, I've owned it for twenty-five years. It's, the reason I own it, at the time, there was a gentleman buying used mobile homes. And he was putting them all over Ridgeville. And I have no objection to mobile homes, I've lived in them. But I didn't want them on this lot because it's on the highway and so I bought the lot. And I have owned it for twenty-five years. And all I've done is pay taxes and mow it. But now, as it turns out I now have an opportunity to sell it. To a retired person from Tampa, Florida who was born a raised in Ridgeville. He wants to come home, his wife wants to come home and they would like to

put a double wide on the lot. In order to do that, we have to have a variance for the mobile home on R-2 and we have to have a variance of one set back. And then I would be able to sell it to him and he could put a new, he wants to put a new double wide mobile home on the lot. That's why I'm here.

J. Hufford: You don't want to buy the lot?

R. Orr: No. The lot is 44 feet by 132 feet. So, with the variances or setbacks it only leaves you nine feet. So, if we get a ten-foot variance on Water Street, we would be able to put a 24-foot wide double wide mobile home on it.

Chairman Hawley: I guess one thing that sticks out to me, and this is just honestly just me thinking out loud I don't speak for anyone beyond myself. Was there plans to add a storage shed or garage or something on that lot after it was purchased because with the variance it's not going to leave a lot of room?

R. Orr: I'm not sure what he wants to do about that.

J. Hufford: Do you know if he is going to put this double wide on a foundation?

R. Orr: Probably, he is a retired brick mason. So, I am sure he will. He has lived in Tampa Florida for 35 years, and he has a nice home in Tampa. Going to sell his home, and wants to move back home. He doesn't want to buy anything out in the county because he would have to put in septic system and all that. This has got water and sewer right by it, so it's perfect for the gentleman. Plus the town of Ridgeville could use it.

J. Welch: Mr. Orr do you own the lot next to it?

R. Orr: No, I just own the one lot.

J. Welch: Okay, I can't tell from the map who owns the one next to it. So, someone else owns the one next to it?

D. Johnting: It's just the corner lot.

D. Calhoun: What would the setback have to be from Water Street?

D. Johnting: Twenty-five feet.

D. Calhoun: Twenty-five, okay.

D. Johnting: When it's a corner lot it takes on two fronts and two sides. You can't impose a rear setback with two fronts. Water Street is a narrow street and a wide right of way, so they'll still be quite a distance between the house and the street. Now if they widen it, that would be different.

D. Calhoun: Looking at the map it looks like there was a lot more room there than what there is.

D. Johnting: No, it's just the lot on the corner. It looks like those two south lots were combined at some time.

J. Peacock: So, it's the one that is in rust brown color there?

D. Johnting: Yes, it's just 44 feet wide. Minus the two setbacks.

J. Peacock: Who owns this at the top, I'm assuming that's north?

D. Johnting: Shane Manning, across Water Street, and then a lady owns to the south of it, I can't see her name on the map.

Chairman Hawley: The gentleman you're intending to sell this to, is this going to be his primary residence or is he thinking about turning it into a rental property?

R. Orr: No, it will be his primary residence. He's going to sell his house in Tampa. That's why I bought it years ago, to keep the rental property out of it. A gentleman was buying used mobile homes and renting them out.

Chairman Hawley: Again, I guess I'm kind of curious. You had said that you bought to keep mobile homes from coming in but now you want a mobile home in it.

R. Orr: (Rosalie Orr) Single wides.

R. Orr: (Robert Orr) Just single wides.

Chairman Hawley: Right but I'm like single wide versus double wide versus modular homes or things like that I was just curious.

J. Hufford: When you put it on a foundation it is almost considered a modular home because they took the wheels out from under the frame.

D. Johnting: I don't know how you set a mobile home on a foundation. They're meant to set on piers underneath.

J. Hufford: And they jerk the wheels off from out from under them and the tongues off of it and everything and they set it on foundation. It's pretty much a home. Basically just a double wide home, it's just put together. It's a modular home.

D. Johnting: I hear Randy tell folks all day long "it has to set on piers underneath". They can put brick around it but I don't know that it's made to have anything to set it on anything unless it's a modular home.

J. Hufford: In Union City we have a city ordinance that all double wides that go in have to be on a foundation.

D. Johnting: Interesting.

J. Hufford: They are on foundations, if they are going to be considered a permanent residence.

Chairman Hawley: Yes, the way they used to do it and obviously I have never done the double wides or anything, but obviously my family has been in trailers for quite a while. They used to just pour the runs and stack the cinder block and basically use screw jacks and that would be considered your pillars, but it's just cinder blocks that are basically your pillars.

J. Hufford: But if they are in a mobile home park, they don't have to do that. But if it's going to be on a city lot by itself, they have to remove the wheels so they can set it on a foundation.

D. Johnting: I don't know if Ridgeville has that requirement. And I can't hold the gentleman to that from this hearing I can't hold him to that when he comes in to get his permit.

J. Hufford: And this is the problem that we've got with a lot of city lots, is that they are narrow. Some are 40 feet some are 37. There is no way they could put a house on those lots. So, if something happens to the original house, they can't build a home back there.

D. Johnting: Shotgun house.

J. Hufford: That's it.

D. Johnting: So, it wouldn't be up to us to decide about that foundation.

Chairman Hawley: Exactly.

J. Peacock: So, why are the setbacks so imposing? Why is the zoning...

D. Johnting: Corner lots have twenty-five feet, and they have two fronts and two sides. It's twenty-feet because it's on the street and you want to keep a residence a distance away from traffic. So, on a corner lot, you face two streets, so you have two front setbacks. So, the best we can do, is not to impose a rear setback, but we give two front setbacks and two side setbacks or lots would not be buildable.

Chairman Hawley: So, we have two separate variances, the one for the mobile home in residential and the other for the setback. We've got two that we have in front of us.

R. Orr: To answer your question about the mobile home versus double wides I personally know the person that wants to buy it and he would make a nice home, I mean, he's a retired brick mason. If he put a mobile home on this I am sure it would be very nice. If I didn't know him I probably wouldn't do this. Also, if a person wanted to build a stick house I would have to have these variances. With the variances the way they are it's nine feet, so if I ever sell this property or to build on it I have to have the variances. Two variances in this case. That's why I'm here.

Chairman Hawley: And that's the, to me that's where the rub is or kind of the separating it out. Like, the variance I see a little bit more. I understand the variance issue, I understand where that needs to happen. We just live where we live. It's small lots, they are already developed. So, it is kind of that. The trailer is a separate issue entirely. The variance seems to make more sense to me, and I don't personally don't see that as being the biggest issue. It's more about the double wide.

R. Orr: Years ago there was a home there.

Chairman Hawley: Right.

R. Orr: And it burnt. And then after the zoning came, nobody else could build a house there.

Chairman Hawley: Right.

J. Peacock: So, what we are saying is that if someone would build a stick house they would have to go through this same process?

D. Johnting: It would require a variance.

J. Peacock: But it would not be the same mobile home question?

Chairman Hawley: Right, the mobile home is a separate issue, if we are putting any mobile homes in residential, even a double wide. We have to have a variance for those.

J. Welch: It's a Special Exception which is just slightly different, slightly different standards that are on the ballot, but it's two separate things. One is an actual exception to put a mobile home there, and the other is a variance to deviate from the setbacks that are required.

Chairman Hawley: Is there any other questions that the board may have for Mr. and Mrs. Orr? Alright, is there anyone that would like to speak in favor or against the proposal here this evening? Okay, I guess we will take some time and make sure that we are checking all the Findings of Facts report before we take a motion.

B. Davis: While we are doing that we may want to consider too, the two that could not make here tonight.

Chairman Hawley: Right, but we can't read those letters, they were passed out. But we can't read them, correct?

J. Welch: We just passed those out, you can just say that you passed those out and considered those and then they will be part of the record.

Chairman Hawley: We did have, per instructions, two letters coming in from neighbors about concerns. They have been submitted to the record but those people were unable to attend tonight but they have been submitted and we have them in front of us.

D. Johnting: I told them about it.

Chairman Hawley: Just want to make sure I'm on tape in case there is an appeal.

J. Peacock: So Deb, notices are sent on something like this, how many neighbors, how many officials?

D. Johnting: Everyone all the way around the property, across the street, side to side and the rear.

J. Peacock: City Officials would be notified?

D. Johnting: They got a copy of all of this a couple days ago, well, the day you got it.

Chairman Hawley: Has every member had a chance to fill out their ballots? Is anybody still working on it? And then do we have a roll call vote?

B. Davis: Second.

D. Calhoun: Now which are we voting on first, the Special Exception first or the Variance?

D. Johnting: The Special Exception has to be first because if it is denied we can't go any further. If it is approved then we can move forward.

Chairman Hawley: So, I move to vote on the Special Exception.

B. Davis: Second.

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

Chairman Hawley: And now moving on to our vote on the Variance ballot, to have the variance of fifteen feet.

B. Davis: I make a motion to vote.

J. Peacock: Second.

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

Chairman Hawley: Congratulations.

R. Orr: Thank you, I appreciate that. The town of Ridgeville appreciates it. Now how will I get confirmation of this?

D. Johnting: You will get it in the mail. I will send it out tomorrow after it's signed.

Chairman Hawley: Next on our agenda we have BZA2023-24-V Lynn Church of Nazarene requesting a variance to replace their old sign with an Electronic Messaging Center. Is there is someone here that would like to speak in favor of the proposal?

T. Govin: Thomas Govin, and I live at 3108 East 800 South, Lynn, Indiana. The church address would be 425 South Main Street, Lynn, Indiana.

Chairman Hawley: Why don't you tell us what your looking to do and we'll see what we can do to help you tonight.

T. Govin: Our present sign has a lot of weather damage over the years, and so we would like to take care of the aesthetics there in addition to putting a more practical operative sign which would be a digital sign.

Chairman Hawley: Guess I'm going to go with my standard one. Is there a way to actually dim the lights at night so neighbors won't be affected by those, not asking to turn them off, but just dim them at night?

T. Govin: It comes with automatic dimming.

Chairman Hawley: And the other thing is we always ask for the non-strobing, three to five second, before moving on to the next message.

D. Johnting: It's in the ordinance, in the table.

J. Welch: You have to comply with what is in the ordinance.

Chairman Hawley: Okay, I get anxious about that. So those are my standards, I always want to make sure that we are not on all night keeping the neighbors awake. Does the board have any other questions? Anyone here that would like to speak in favor or against the proposal tonight? If the board would take a moment to please fill out the variance ballot.

D. Johnting: I think we had this discussion last time, these don't fit everywhere, so that's why we continue to meet. Obviously, if it's going to shine in someone's window, it's not a good fit.

Chairman Hawley: I think their location is a whole lot more beneficial, than some of the ones that we've had, it's a back aways.

T. Govin: The sign actually sits about 50 feet from the center of 27.

Chairman Hawley: I assume you're going to put it on the same foundation?

T. Govin: Yes, on the exact same foundation.

Chairman Hawley: If every one has filled out their ballot, I motion that we have a vote.

B. Davis: So moved.

J. Hufford: Second.

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

Chairman Hawley: Next on our agenda is BZA2023-25-SP for Steve Wilburn. Requesting a Special Exception for a double wide mobile home in a residential zone. If anyone is here to speak on this please come up and state your name and address for the record.

S. Wilburn: Steve Wilburn, 305 East Jackson Street, Farmland.

Chairman Hawley: Why don't you tell us a little bit about what you're looking to do and we'll see what we can do to help you.

S. Wilburn: I bought the property of three acres next to my property at 303 East Jackson Street. It was in a flood zone, and I had it removed from the flood zone by an elevation survey. I'm going to, my daughter wants to put a place on it. But I haven't decided whether it's going to be a house or a modular or mobile. Because of the cost factor. But I'm going to give her 1.2 acres and then I'll probably sell the other two acres, or whatever is left. I've cleaned it up, mowed it hauled trash out, I've hauled a camper out, a lawnmower out. I have hauled brush out and cleaned it up and now it's actually, I don't know how long since it was ever mowed, but I can mow now. Out of three acres, I'm mowing about two and three quarters acres of it. It's city water, city sewage. It's in the town of Farmland. It meets, as far as the easements and everything, the acre and a little more that I'm going to give Chelsea is more than enough to cover that. I don't know exactly where it's going to be, because there's a lot of trees in there, and I've talked to them about how they are going to have a drive, in and out. And the biggest thing is, if they actually move a mobile home in there, is to get it



moved in. There's an empty field behind it but there is a row of trees and there's a fence back there that Patty Raines, my neighbor, owns that. So, you can't really, you could come in if that fence and those trees weren't there, to put a double wide in there, but the way it sits right now you can't. I think it could be moved in, those guys that move mobile homes are pretty good, but I don't plan on taking any trees or anything down unless it's absolutely necessary. It's a pretty nice wooded lot. The other two lots, if I subdivide it, I've already been through this with Area Planning, I'm not going to get into a sub-division and all that stuff. The most it would be is three different parcels. One would be hers and the other two I would sell or I have it listed right now with Wagner Real Estate if somebody wanted to buy the two acres together, I don't care what they do. I have no intentions of building on it. I have no intentions of doing anything with it. I bought it strictly for her. But I think the three acres are a bit much for them.

J. Welch: Mr. Wilburn, you understand that what we do today has nothing to do with whether it can be split or any of those issues, this only about if you can put a mobile home on it.

S. Wilburn: Yes, I understand that. And I guess this is more of the, if they move forward with the mobile home, the double wide. I mean they've been looking at a couple of different options. But, this is more or less, if that is what they decide to go with where do we stand on this getting it approved. It was in the flood zone, which I'm not really sure why but it was above the minimum elevation when they did the elevation survey, Ashton out of Muncie. I got the letter from Ashton and then I think Deb probably got it also that it was removed from the flood zone.

Chairman Hawley: That was my only concern was when I saw it was in the flood plain. And then it wasn't anymore but was on the flood plain for a really long time, I was curious how drainage and everything else is set up there. Ed, I'm sorry to have to put you on the spot but you will forget more than I will ever know about this. I'm just curious.

S. Wilburn: They put a sixteen-inch main in there several years ago I think, Culys did. But it's not doing the job.

Chairman Hawley: My concern is that after you start doing this, I mean it's like a weird domino effect, when you start putting in foundations it affects drainage on other people's lots and things and I guess I just don't know how that all plays out. Am I being silly, am I overthinking this Ed?

E. Thornburg: No, there is a county legal drain that runs down the alley on the west side of the lot. That is what the red dashed line is on the picture. We've had to suck the storm drain out on Jackson Street several times. The city has access to a vac truck so they can take care of that themselves now. A common problem with storm drains in town, is that all the sand, all the grit, and all the gravel all ends up at the bottom of the thing and plugs them off. This lot, the side where he's got his pictures drawn, I would be real slow to build, if it was mine personally, to build on the western part of it. My easement is, since it is a developed subdivision, twenty foot down each side of center which puts it about, that one lays to the east side of the alley so it'd be about fifteen to twenty feet into the lot. The rest of it, it needs tile drainage. You could tie to that drain and dry it out. That's not a problem. To improve that is not a problem. There is a fair amount surface water that comes across there. That whole corner of town goes that way. What he's talking about here, this is doable.

Chairman Hawley: Okay, I didn't want to set anyone up for failure.

J. Peacock: Just to clarify, I thought the flood plain designations got harder to get around a few years ago.

E. Thornburg: They did, but you can still appeal. If you're on the edge you have a chance of appealing and reaching it. If you're in the middle of Farmland, where they put a third of Farmland in the flood plain in 2012, you're pretty much hung, but this is on the edge.

S. Wilburn: That entire property was not in the flood plain, it was right at half of the three acres.

J. Peacock: That was in the flood plain?

S. Wilburn: The half on the east that goes basically from the east all the way to the back, and over because if you've got a picture you see that property has like a flag layout, there is section of that land that goes directly behind my house. Do they have a map?

D. Johnting: Yes.

S. Wilburn: Okay. That's gonna be part of property that she gets. But if you look at that, that flood plain started about half way and went within about twenty feet to the back. It was kind of shaped like Lake Michigan, upside down back there. But when Ashton did the elevation survey they surveyed the entire property and it was all above the two foot minimum. It basically starts in the east corner. It's quite a bit higher than it is to the west, I think it elevates about three feet. But even in the west corner it is still above the elevation minimum.

J. Peacock: Have you received confirmation that this is out of the flood plain?

S. Wilburn: Yes, I did.

D. Johnting: I have it too. And about two or three years ago DNR did a "best available" layer and that lot was no longer in the flood plain. So, FEMA still considers it in, because they have not adopted the DNR layer. However, that's why he had Ashton do the topographical survey and they are going to let FEMA know, and FEMA will not look at it as flood plain now either. That's what you have to get. And, if they ever adopt the DNR Best Available, it will be out on its own.

S. Wilburn: I think they used the same map from 2012. And they have new pictures from 2017 or 2019 that the flood plain moves south and east. But that's irrelevant to where we are at right now.

Chairman Hawley: The reason I was bringing it up is that it also ties in with the foundation issues that we were having earlier, especially with a double wide, being on a pillar versus actually something anchored. The last thing I want to see if it's a marginal flood plain or drainage is bad I don't want to see someone's house float away. So that was my concern.

S. Wilburn: I think the way that I understand it is and I have done a lot of talking to Ed and everybody. That any part of your property that is in the flood zone, it's in there. But I think if I had surveyed this off and took that half that wasn't in there, then it would have been out and the other would have still been in.

Chairman Hawley: Okay. Does the board have any other questions tonight for Mr. Wilburn?

S. Wilburn: And I can't say for one hundred percent sure if it's going to be a mobile home, modular home, mobile home or a brick house. That's up to them and how the finances shake out, as far as what it costs.

Chairman Hawley: Right, because the Special Exception we have is just for the request to put a mobile home on the residential property.

S. Wilburn: And probably, if I sell the other two acres, which I intend to, if I sell them in two different lots, I am going to try to have a restriction of that you can't put a used mobile home in and you can't put a single wide in. I don't want to have a mobile home court there because that's not practical. But I also don't want somebody bringing in a fifty-foot used trailer.

B. Davis: Just for clarity we're looking at a double wide mobile home, not just a single trailer?

S. Wilburn: Right, they're looking at a four bedroom, three bath. It's about 2,200 square feet.

Chairman Hawley: The only thing we have for tonight is the double wide for his daughter. We're not parceling out anything else.

B. Davis: Right, if we vote for it, he cannot put a single unit there.

D. Johnting: That was my question too. So, no single wide under any circumstances.

S. Wilburn: That defeats the purpose of what they are trying to do, they are coming out of a three bedroom two bath and they want something bigger.

Chairman Hawley: I was just going off the reasons, and it specifically says no single wide mobile home. Are there any other questions from the board? Is there anyone that wants to speak for or against? Please come up and state your name and address.

M. Sloniker: My name is Melissa Sloniker. My husband Brad and I live west of the property in question. I have a letter that I have typed up and I'd like to read it.

D. Johnting: Do we need a copy for the record? And do they have to vote to accept it?

J. Welch: She's just going to read the letter so I don't see any problem.

M. Sloniker: I'm just going to skim it, I probably won't even read it. First of all, my husband Brad and I bought the house 26 years ago. We have lived on this property. And in the last 26 years, we had a neighbor back there for maybe two years. And since then it's just been terrible, a jungle. We have mice, opossums, so it's wonderful and we are thrilled that Steve is maintaining the property and is increasing the value of our home. Now then, as for the flood plain, go for FEMA that they made it not a flood plain. But, I'd invite you to come to our house sometime when it rains, because it does flood. And it floods significantly. Our house, on the back of your letter, at the top, there's a little yellow dot, our house is right there. And we have water up to our garage. I would say it's 75 feet from the property line up to our garage. Because, as Steve mentioned, Culy did put in a new drain in, I don't remember when it was, do you remember when it was?

E. Thornburg: It's been at least ten years so.

M. Sloniker: Yes, it's been quite a while ago. But not long enough that we don't still have clay tile coming up through the ground. But, even with the new drainage it just doesn't get cleared. We have a wonderful neighbor up the street, who goes down to the culvert that Ed mentioned, and he tries to keep that cleaned out. He's getting older, and how long before it just doesn't drain anymore? As for having a double wide back there, if they do put it on the east side of the property that's great, it's not going to affect their flood, however anything that they do to change the property will force water onto us. And, according to the Randolph County Ordinance, they are not allowed to change their property and force water onto our property. So, I don't know what we can do to deter that. If he goes to the east side that's fine, however, the two lots that he has for sale are on the west side of the property closer to our property and they are advertising it as a place to build a home. If they build then that is just pushing more water on to us and how long before that water is creeping up to our door? And so that is my concern. I don't know what the solution is, I don't know if it was you Mr. Hawley mentioned adding drainage tile to increase the flow to move that water, I don't remember who brought it up, maybe it was Ed, and that's ideal, but there is an expense involved there.

Chairman Hawley: Sorry, your time is up.

M. Sloniker: Oh, thank you for your time, I do appreciate it, and I have another copy of the letter if anyone wants to read it.

D. Johnting: I'd like one for our records, thank you.

M. Sloniker: And thank you for your time.

Chairman Hawley: And I guess just for my clarification, tonight's only ballot we have is to put a mobile home, or a double wide home on that specific lot, we don't have anything about future plans for any other building. And, from my map it just shows it is going to be on that east corner.

M. Sloniker: And I guess my concern is that if they do that, it forces water towards us. That was my question.

Chairman Hawley: That's fair.

M. Sloniker: Thank you for your time.

Chairman Hawley: You are welcome.

B. Davis: My question is for the board and for Ed, is this drainage issue there not something that the county cannot step up and fix?

M. Sloniker: Yeah, thank you for that.

E. Thornburg: The challenge here is, like I said, we replaced the drain. Right beside the drain we replaced is a new sanitary sewer they put in, and we put them in together. Their old sanitary sewer was clay field tile. The biggest problem is, the surface drainage is blocked all the way back. To get that, to shape that up like you need to, it's his lot. Now, I'm not saying that it would behoove you to

go out and spend a bunch of money, I'm not saying that at all. But to get the surface water from point A to point B the area adjacent to the alley and the adjacent area to that needs to be cleaned up, reshaped, the brush, etcetera cleaned up. Normally, we would put in a waterway type swell in and maybe add a catch basin. I think there are two in there, if I remember right, it's been awhile. I remember swimming out there quite a bit. The shape of the ground, it's a surface water problem at this point. If it was my cornfield, we'd go out and put some laterals in it and dry it up. It does lay wet, and there's no getting around it. And yes, actually there is an eighteen-inch tile in there, but it only draws so far and it doesn't matter if the water is blocked because of the sticks, grass and debris on it.

B. Davis: So, there is no easy fix?

E. Thornburg: If you want to spend that kind of money on it, anything can be fixed, but no, there is no real easy fix. To be honest I haven't heard anything about this lot since we put the tile in, because I know it's better than it was. I'll shut up now.

J. Mills: I'm taking it all in, I don't know if I'll remember it, but I'm taking it all in.

Chairman Hawley: Sir, please state your name for the record.

J. Mills: Jerry Mills, I live on East Street, 610.

Chairman Hawley: Okay, what do you have to say sir?

J. Mills: My property backs into to his northwest corner. That is were the flooding is where I'm concerned. That's where the tile starts from the manhole, and comes down through there. When they graded that alley once they put the tile in, they took some of my dirt. Now I'm not here to talk about all that. But it made my property a little lower there, so any flooding that comes through there catches in my back yard. Now I had Mr. Thornburg out there, along with Culys, and they went ahead and regraded it some. It helped, but it was not like it was. And so my back yard still catches the water but just not as bad. But we haven't had the rains like we had in the last twenty years, you know, it doesn't seem. But then, a couple of years ago, they put a, whoever owned that property tried to put a driveway back into the back. They were going to try to fix some kind of shop up, that type of thing. And just the little that they did, changed the flow of the water. So, I can't imagine what this going to do when you have two lots, three lots, and people wanting to build on there. Now, there's a lot of questions about, is it gonna be a double wide, is it going to be a mobile home or a house? And you're talking about property value and Farmland is not real good about keeping their trailers up. We've got one at 604, it's right there on East Street, right behind the apartments there on the corner.

J. Welch: Mr. Mills the request is for a double wide so a single wide is not in question and if he was going to build a stick home this would not be an issue.

J. Mills: Well, my point is, if we allow one trailer to go in now and he is going to sell two others, those other ones may want trailers too. And once we start that and set a precedent, all the property owners that are adjacent to his property is going to lose out.

Chairman Hawley: I appreciate your concerns but I am sorry we have run out of time.

J. Mills : Thank you.

Chairman Hawley: Mr. Wilburn, it is your right as the petitioner to have five additional minutes to address any grievances or concerns brought up by the people here tonight.

B. Davis: Before you start, my question, what you just said Jason, if he puts up a house this would not be an issue for us correct?

J. Welch: Correct, or a modular.

S. Wilburn: And the only thing I can say with regard to the double wide mobile home, if a double wide mobile home is set in there, it will be more value than any house around there. A double wide mobile home runs around \$175,000.00. Is what it cost. There's not a piece of property around there that is \$175,000.00. So, it's not going do anything to influence it. There's mobile homes across the street, Like Jerry mentioned that. I can't control what anybody else does. The property that we are talking about is, if somebody wants to buy that two acres, that's their decision, and they can deal with whatever legal problems, drainage problems they have, whatever problems they have, I'm not going to do it. I don't think that a mobile home will change anything, I don't think that where we are talking about setting this one will change anything. I can't say that putting two other mobile homes on that property is going to change anything on the drainage. The drainage is a problem now. And there's nothing there. Period. There used to be a house there, it burnt down, I think in 2007. As far as what is there now, the water problem is there and it's been there. The 18" main that Culys put in hasn't fixed it.

J. Welch: Mr. Wilburn one of the findings the board has to make, to find in your favor is to find that adequate drainage has been provided or will be provided. Are you saying that's not the case?

S. Wilburn: No, I'm saying that the mobile home that where this mobile home that we are talking about putting in, it's not going to change anything. The other two acres, if it was to sell, I don't know what that would require, but right now, it's still, the problem is not my property. The problems the drains and the way it is set up. All those houses back there on New York Street, all that water flows down that little alley way that Ed talked about. And that's where that 18" main comes in. I've been back there when it has rained, I see that water stands back there. But clear over on the east side there is no water issues over there.

D. Johnting: Well Ed signs off on every permit, whether it's a mobile home, modular home, stick built home, Ed has to sign off on they get the permit. So, is it fair to ask you Ed, what you will do when this comes in front of you, does this this have adequate drainage for the drainage board approval?

E. Thornburg: This lot will work for what he is trying to do. Without disparaging somebody's property, I wouldn't build on the west side of it. That 18-inch drain in there is more than enough drain to get rid of the water, but when all the surface water from all the 25 houses upstream of it get there, it lakes. This lot is basically flat, from north to south. That thing that looks like a trench up beside up it? That's the driveway the guy started. A guy went in there with a crawler and he cut out

a driveway one weekend. And I don't think I ever saw it dry. But that thing, great collection, basically it would be a great way to a water conveyance, but it doesn't go anywhere. Without spending, and to be honest, I don't have a tendency to spend money on vacant lots, just because they really ought to be fixed, and if I did that I'd never get done. The wet side? Yeah, it's got challenges.

Chairman Hawley: Is what he is proposing, I guess in your opinion...

E. Thornburg: What he is proposing will work for him.

Chairman Hawley: I'm concerned about for the neighbors.

E. Thornburg: What he's going to do is really not going to hurt them, the water issue that is there is still there, he's adding 28' x 72'? I'd say that size house, if they do any decent work at all with the grading, yeah, it's still going to have water in that corner. Personally, if I was building on the lot you are talking about, I'd be running a line from the county ditch up there close to your house to give a place for your eave water to get away and dry up your yard. And that is all permissible. Now, what I don't know is how they connect to that sanitary sewer that is actually under, or behind that tile. But maybe you can get sanitary out front, I don't know. I helped install it and I don't know how to hook to it. The west side is wet and it's going to stay wet. I really don't think you're going to hurt anybody with what your going to do on the east side. But I would really behoove you to try to get it drained up to your new house. Personally, I'd run a couple of them in there and it would make the lot more saleable.

D. Calhoun: Looking at the map which way does the water run north or south?

E. Thornburg: It runs to the south.

D. Calhoun: South, okay, that's what I thought.

E. Thornburg: It comes in from the west and runs south, I think it lacks a block from getting over to State Road 1.

D. Calhoun: Okay. That's how I thought it would run, but I wasn't sure.

J. Peacock: So, nothing from this will put more water on these neighbors?

E. Thornburg: It shouldn't. Now, sure if we tell them that, and he puts the house in, and then six weeks later we're going get a three-inch rain, and they are gonna think Noah came to visit. No, it's not going to make it any worse than it is.

M. Sloniker: That's if he installs the drains, and it's a big if. If he does that...I hear a lot of "ifs".

J. Peacock: Can we make that part of Exception Approval? That there will be drainage? Is that something that we can do?

J. Welch: It would have to approved ahead of time, so it would be difficult to say that. It would have to be written up so it would be enforceable, is one of the issues. At this late time, as far as what condition you were going to put on it.

S. Wilburn: I think it's more feasible that you are trying to fix something that you don't even know if it's a problem. Ed said that it probably would not be an issue. It might be a good idea, but as far as expense wise it would be a flip of the coin whether that's going to make any difference or not. If it becomes an issue, then I think that that's when it probably should be done. But trying to figure out, and say "well, if I do this or they do that, it will fix it, that is anybody's guess." For me if I was going to build on the west, I wouldn't build in the back. I would built up toward the road more, and the back portion you could try to figure out how to drain and whatever you are going to put in. But, that's not the point of this meeting. Is, where it's going to be when they decide what they are going to put in, and it's going to be in the north east corner

E. Thornburg: Another thing I should actually mention is there is a second, it's actually a private lateral drain, that drains about 10-12 homes that come in about three houses up from the bottom of this picture. There's a, but it's either two or three houses up from Jackson Street. There is a lateral that comes in from the west that drains.

J. Mills: Well, somebody worked on that and it when it rains very hard at all, it builds up on Bobby's place and they were told, Bobby was told that won't happen and it has happened, numerous times now. From the trailer that's over there across the street.

E. Thornburg: Well, that's another one, yet, but those are laterals that I can't spend money on because I don't collect money on them.

J. Welch: Ed, specifically the board has to find tonight whether or not adequate drainage has been provided or additional drainage would be required to make this go. So, you're the only person really who can answer that for us, that's the issue that I see with this, is what the board has to answer is if there is adequate drainage there. Or whether he needs to do something else to ensure adequate drainage and that's really a question you have to answer.

E. Thornburg: My challenge here is, if I was selling you the lot I would be bending your arm to get you put that drain in, but I can't tell you that your house is going to fail if you don't.

J. Hufford: The way it sounds is if he's building it on the corner back there where they don't have a flood problem?

E. Thornburg: Now the lot would a lot more of a pleasant place to live if it didn't grow mosquitos in the summer, and frankly he has helped it with the mowing I'm sure. But once you get the surface water underground, there are less mosquito issues. I've tried to remember how deep that ditch is up through there but. It's got some depth, but I would think that it ought to inhale anything that comes near it, and I don't think we ran that...no, we did not run that in solid. But I do know that it was a mudhole when we put it in.

D. Johnting: Do you impose drainage on a property or a building if you think it's required? I know you can on a business. Can you impose drainage when it comes to your desk on a residence, like you do on a business? If you think that's required?

E. Thornburg: You can, but it depends on which board members you talk to. Some counties they do that, some counties they don't. The only time I feel like I can do that is if I believe you are



definitely going to cause harm to your neighbor. Because to be honest, if you want to swim out of your driveway what'd do I care?

D. Johnting: What's the remedy if it does?

E. Thornburg: If it's done?

D. Johnting: Because they're here wanting to know. What is your remedy if does cause harm?

E. Thornburg: The remedy for that would be to connect to the legal drain that's literally 200 feet away, and run a drain. Most places when we have a problem here you are a half mile from a drain through three other properties. And that is always an absolute train wreck. Here, you have a legal drain that's close.

D. Johnting: So, who's responsibility then after the fact to connect to it?

E. Thornburg: I've provided the outlet, it's somebody else's responsibility to tie to it and use it.

D. Johnting: Okay, thank you.

B. Davis: But for clarity, if a stick-built home was there this would not be an issue?

D. Johnting: No, but it would still go before Ed for that question.

J. Welch: Special Exception would not be an issue.

J. Peacock: But not this question.

D. Johnting: No, not this question.

S. Wilburn: So, if they decided to go with a modular or a stick house then all of this is irrelevant.

E. Thornburg: I wouldn't turn this lot down for drainage even if you were putting a basement in but I'd sure tell him it was a bad idea.

B. Davis: It's too bad that, for the folks to the west of it that the county cannot solve it. I'm not pointing fingers I'm just saying that you've got more than one family that is affected by this and I sure would like to see it fixed. I know it's not you, but I'm just saying it sounds like there's an issue there and somebody needs to come up with a solution.

J. Hufford: You would think that the town board of Farmland would be on the county to fix it.

B. Davis: Bingo.

J. Peacock: So, then what would it take to fix it? You said a couple of laterals.

E. Thornburg: A couple of laterals would fix their new house. The problem is this lot basically has no fall in the full length of it, and I know when we did the work we did in it at that time it was like working in the edge of a wet woods. That's the only way I can describe it.

J. Peacock: But you've got a drain?

E. Thornburg: I've got an 18-inch tile in there.

J. Peacock: That's deeper than the profile.

E. Thornburg: That's deeper than the profile.

J. Peacock: So, it could be helped?

E. Thornburg: The biggest thing, if I was going to try to make it really work, and the owner that owned it at that time, we never saw him. So, we tried to do as little impact on that property as we could. This was, I'm going to say eight or ten years ago? But, the best thing you could do would be to grade the whole thing from Jackson Street up. Then I've got to get rid of that dirt. Which obviously roll it out on the lot and level it out. But the whole thing laid wet the whole time we were there.

D. Calhoun: I think we all know that if we get three-inch rain water is going to stand in places that are low. It doesn't matter how good of drainage you have got in there it's going to stand there for at least a couple, three hours or maybe four.

E. Thornburg: A big chunk of the northwest end of Farmland comes right through that lot. Yeah, a big part of it.

J. Mills: Yeah, and that's my back yard.

M. Sloniker: That's exactly what I was going to say.

B. Davis: So, Jason, it sounds like the issue needs to be addressed to the town of Farmland maybe about this?

E. Thornburg: They'd call me.

J. Welch: Right there's the guy. This is not a new problem.

B. Davis: It's just sad that it can't be fixed.

J. Welch: Farmland's built in a hole, is kind of what the deal is.

S. Wilburn: I would love for it to fixed, I just don't think it's my responsibility.

J. Mills: Will it become his responsibility if the water starts to running back on our property because of any construction or putting other buildings up? When you put this mobile home up, they may want a garage. Or something, and one thing leads to another. But we own the property and we ought to be able to do this.

S. Wilburn: If they go in there and build an 1800 square foot brick home with a garage, this meeting doesn't even happen. But because it's a mobile home the exception it has to be to prove, has to be put in to put it there. So, all this chatter about what if what if what if. I don't know, I can tell you if that mobile home goes in there, if it sells, whoever buys it, that's up to them. If it doesn't sell, I'm not going to give it to anybody else and I'm not building anything there myself.

Chairman Hawley: And speaking of, and I think the reason that I think the big hold up is on our forms that we have to fill out, item number four says "adequate utilities, access road, drainage and

other necessary facilities have or have not been or are being provided”. So, that’s still my hang-up and why we still keep talking about the drainage. The rest of the stuff at least for me, I think we have kind of satisfied here. But that’s the one hiccup I have.

J. Hufford: But he has no problem on that part of the property where he’s planning to build.

Chairman Hawley: Right.

J. Hufford: So, there is no problem, on that part of the property. Now if it was going on the west side than I guess it would be a problem. But where he’s are wanting to put this thing there is no problem. There is no flood plain there.

B. Davis: And, if a house was there, would that even be an issue?

J. Hufford: Right. You can build a house there.

M. Sloniker: I don’t care if there’s a house or a trailer there as long as we can specify that he stays on the east side so that the drainage doesn’t get shut off.

Chairman Hawley: And that’s where we have this set up is on the east side. As far as any other houses or any other issues in the future, that is not before us tonight. It’s just that one double wide trailer, double wide mobile home, on that one area on the east side. That’s all that we have tonight before us.

M. Sloniker: We weren’t given specifications about where it was going to be, we were just told it was going to be in that lot.

Chairman Hawley: From the map that I have it just on that east side far back corner.

J. Peacock: If I approve this Special Exception, and he owns all three acres, where could that place go?

D. Johnting: It can go where he marked it, that’s the only place.

B. Davis: It can only go where he marked it.

J. Welch: He wouldn’t put it over there anyway, on the other side. It would be silly for him to put it on the other side.

J. Peacock: Unless he wanted to put more homes in there.

Chairman Hawley: That’s kind of the binding agreement that we have.

J. Mills: Where’s it marked at, is it marked up by his house or?

D. Johnting: The far northeast corner.

J. Mills: The far northeast corner, yup.

M. Sloniker: So, is there a driveway?

D. Johnting: You don’t have a driveway back there yet do you? You don’t yet?

S. Wilburn: See, I intend to take about seven and a half feet over on my property. The reason I am doing this is because her property and my property would be adjoining. And the grandkids would go from their house to my back yard.

D. Johnting: I didn't get into that with him.

Chairman Hawley: Family is important, I get that and I see that you are really going out on a limb for your family and I get that. I appreciate that.

S. Wilburn: I've been checking, and now that it's a two-acre requirement to build a house out of town and the cost for a well, and the cost for a septic and everything and you could be looking at \$40,000 and not even have a two by four.

Chairman Hawley: And farm land being what it is and even finding acreage is difficult.

S. Wilburn: Farmer John is not going to just say, here take this two acres.

Chairman Hawley: I hear you.

B. Davis: If there is no more discussion I make motion that we move forward for a vote.

J. Peacock: Second.

J. Hufford: I'll second.

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

S. Wilburn: Very good.

M. Sloniker: Thank you for hearing us.

Chairman Hawley: Thank you very much for coming. Alright, do we have any old business before us? Any new business?

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

Chairman Hawley: Reports from officers, committees or staff. I motion to adjourn.

J. Hufford: So moved.

Chairman Hawley: Thank you very much gentlemen.

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Chairman Jason Hawley

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Debra Johnting, Recording Secretary