

BZA MINUTES

JUNE 19, 2017

Members present: Phil DeHaven, Jim Hufford, Bill Davis, Eli Jones, Christy Starbuck, Jason Hawley and Myron Cougill

Legal Representation: Jason Welch

Staff present: Randy Abel, Executive Director, Debra Johnting, Recording Secretary

Others present: Daniel & Jessica Lamm, Patty & Josh Roberts, Trent & Carla Durham, Bill & Janice Starbuck, Bob & Shelly McCoy, Ed Thornburg.

Chairman Davis: Welcome everyone to the BZA Meeting. Tonight is June 19, 2017. The first thing I would like to do tonight is to approve the minutes from May 15, 2017. Do I hear a motion? We have a motion and a second, all in favor, opposed? Minutes are approved. The first item on the agenda tonight is BZA2017-13-V. Daniel Lamm. Is Daniel here and would you come forward? For the record, please state your name and address because this is a recorded meeting.

D. Lamm: My name is Daniel Lamm, I live at 927 W Division Street, Union City, Indiana.

Chairman Davis: Did you receive Article V, Conduct of Hearings?

D. Lamm: Yes.

Chairman Davis: And everything was mailed and published on time?

D. Johnting: Yes.

Chairman Davis: Then state what you would like to do please.

D. Lamm: I would like to expand my bathroom. I live on the corner so it's too close to the road, so I need a variance to go six feet to the west and six feet to the north. It's better to do that than to try to add a bathroom on to the other side of house. This makes much better sense to add this here.

Chairman Davis: Does the board have any questions or comments? Is there anyone in the audience who would like to speak for or against this petition at this time? With that being said I would entertain a motion for a roll call vote. It has been moved and seconded for a roll call vote. Debra.

D. Johnting: Bill Davis, yes, Jim Hufford, yes, Phil DeHaven, yes, Jason Hawley, yes, Elijah Jones, yes, Christie Starbuck, yes, and Myron Cougill, yes. Motion approved.

Chairman Davis: You're good to go.

D. Lamm: Thank you.

The next item on the agenda tonight is BZA2017-14-V. Josh and Patty Roberts. For the record, please state your name and address.

J. Roberts: Josh Roberts

P. Roberts: Patty Roberts, 5445 E Union City Pike, Union City, Indiana.

Chairman Davis: And you did receive Article V, Conduct of Hearings?

P. Roberts: Yes.

Chairman Davis: Then please state for the board what you would like to do.

P. Roberts: We are asking for a variance on our property to build a pole building within five feet of the property line.

Chairman Davis: Does the board have any questions or comments? Anyone in the audience who would like to speak for or against this petition at this time? With that being said, I would entertain a motion for a roll call vote. It has been moved and seconded for a roll call vote. Debra.

D. Johnting: Bill Davis, yes, Jim Hufford, yes, Phil DeHaven, yes, Jason Hawley, yes, Elijah Jones, yes, Christie Starbuck, yes, and Myron Cougill, yes. Motion approved.

Chairman Davis: You're good to go.

P. Roberts: Thank you.

The third and final item on the agenda tonight is BZA2017-15-CU. Trent Durham please come forward. For the record, please state your name and address because this is a recorded meeting.

T. Durham: Trent Durham, 2598 S 300 E, Winchester, Indiana.

Chairman Davis: Did you receive Article V, Conduct of Hearings?

T. Durham: Yes.

Chairman Davis: Please state what you would like to do.

T. Durham: We'd like to build a wedding barn, an event barn north of our house on approximately three acres.

Chairman Davis: Does the board have any questions or comments?

J. Hufford: I have a couple of questions. This being an event facility will accommodate several people. Over fifty? Well over fifty?

T. Durham: Building it to hold 300 or less.

J. Hufford: Now, this is for the attorney here. Does that have to have an EPA check on that ground and things like that before he is allowed to build something like that for an event building? And does that have to pass the state inspection for the fire code?

J. Welch: That doesn't have anything to do with us.

J. Hufford: Ok, while he's building it does this have to be done? I just want to know. Do you know Trent?

T. Durham: No.

R. Abel: It has to meet the State Requirements and get a State Design Release before a building permit can be issued.

J. Hufford: So it has to have sprinkler systems and so on for public buildings?

R. Abel: Yes.

Chairman Davis: Good question, anything else from the board? Any discussion?

J. Hawley: My understanding is that this is for fundraising only so it's not for profit?

T. Durham: No, it would be a wedding barn. We would donate it if somebody wanted to have a fundraiser there or something like that you know or anniversary party, graduation party, say somebody wanted to have an event for somebody who had cancer or was in a car wreck or something, donate the building and let the community use it. But, yeah it's for profit but it doesn't always have to be for profit. If it's a fundraiser.

P. DeHaven: I have a question. From the proposed building site to the neighbor's home to the north approximately how many feet may I ask?

T. Durham: I haven't laid my tape measure on it. Bill, would you have any idea?

B. Starbuck: Yes, sir. Do you need it now or when I get up there?

R. Abel: I think it's around 300'.

E. Thornburg: I think it's closer to 350'.

Chairman Davis: Any other comments or questions?

C. Starbuck: Do you plan on serving alcohol?

T. Durham: If it is allowed it will be through the caterer, and the caterer will have to provide the bartender. The caterer would, if we put it in our contract that the caterer was to take care of the alcohol and the bartender, they will have to have a liquor license.

J. Hufford: I know how it was when I did it, but when you've got somebody else coming in....I think the property owner is still liable if anything happens.

T. Durham: Not if you have it in your contract and everybody signs off on it. Not from what my attorney says.

J. Welch: As far as who has to get the permit?

J. Hufford: They have to have a state permit for every event that he has.

J. Welch: I think it would have to be a case by case basis I would guess.

J. Hufford: I think that's something that the alcohol board would have to answer.

Chairman Davis: Anyone in the audience who would like to speak for or against this petition at this time? Please come forward. State your name and address for the record.

B. Starbuck: Starbuck, William L. 2474 South 300 East. I am the building, or house just north of this possible project. And part of it was covered in your questioning of my concerns. The 300' or 350', whichever it might be.

E. Thornburg: It's actually closer to 300', you were correct, I was mistaking your house for your garage.

B. Starbuck: Thank you. So, that's like my living room is on the south side of the house, it's going to be, if you have bands, whatever, it's going to be like right in my living room. Now, another thing, when we moved there and built that house which has been a number of years ago, we thought that was going to be a peaceful area of residence of which to live. We wouldn't have the noise and so forth of a band, and who knows what else, yelling and screaming of, because you know they are going to have kids there at a party, and some people are going to drink, whether you have a permit or not. And leave the premises probably and what happens if they come on my property and are hurt? I have worried about that also, what is my liability? I'm nervous, I'm not used to getting up here and defending myself. Also, the idea is also one more point, and I am not picking on the business that he is in, which is logging. Ok, nothing wrong with that, but there are stacks of logs there. And I am thinking of a party with young kids. I read that they will possibly have a fence around this building. To keep people from possibly going out further than that area, but I can see a young boy, or whatever, playing king on the mountain. Wouldn't that be a nice place to do it possibly on that log pile? I'm thinking about the liability of someone getting hurt. Now you have a fence around there and I know that it will probably have gates on it, well, the thing with saying that you can't go outside this fenced area so you lock people in and you can't do that either, I don't think because there is another liability. Because of all these laws we have. I think things should remain as they are instead of having the building there. I don't see that it's going to do a lot for the community actually. And we have one other item that we were sent an email from another person who lives there who could not attend the meeting this evening because they live in Chicago. And we would like to give that to the board, the letter that they wanted given and brought up. That's their letter and that's from the Kings. Who I think maybe you have all seen something on that.

P. DeHaven: Reading this email has gotten me thinking. How close is the closest hog operation, cattle operation, turkey operation, or chicken operation and do you have said feces spread on your property or on adjacent properties around you? That's my question.

B. Starbuck: Adjacent, yes. Ours, we have not, other than regular spray for weeds.

P. DeHaven: How close is this spray from your property.

B. Starbuck: Right across the road. As far as animal manure?

P. DeHaven: Do you ever smell that?

B. Starbuck: I try to leave. I mean, I didn't think you could really talk about that, because that is an agricultural area and I figured. Hey, I've got agriculture. That's my land right around Trent, therefore sir...

P. DeHaven: That's what I am saying, I am just saying and that I have asked what I wanted to ask.

T. Durham: That's why I live in the country I like to smell all of it.

M. McCoy: I am their daughter, Shelly McCoy. I live at 196 S Tamarac Drive, Winchester. I did sign in. Don't they only spread that so many times a year? Wasn't his question about spreading things?

P. DeHaven: All I asked was how close the closest manure was spread to Mr. Starbuck's property and if he ever smelled it.

B. Starbuck: I have smelled it, yes I have. It's hard to get away from it.

P. DeHaven: Oh yes, I am well aware of that.

B. Starbuck: I understand.

Chairman Davis: Jim, let me get to you in a minute, Phil, I'm sorry, but how is that relevant?

P. DeHaven: It's only relevant to my point as saying: alright, we don't want kids out there, we don't want a venue out there, but yet everything else associated, this is in ag, I know, is still an issue because how many times have we had people come in there, just two meetings ago to talk about manure for a variance.

J. Hufford: My question is this an agriculture intensive area and for it to be an event venue would we have to put this over to commercial?

D. Johnting: No, it's a Conditional Use in ag. I explained to Trent, if he gets permission to do this, he builds there and does what he has told us he is going to do for as long as he wants to do it. If it stops for more than one year then the Conditional Use is over, but it will always remain agriculture.

J. Hufford: The reason I asked is that I remember a funeral home that we had to put over to commercial even though it was agriculture intensive but this doesn't have to be rezoned?

D. Johnting: No.

C. Starbuck: So if this is built and it was in operation and they sell their property, does that Conditional Use go with the property to the next owner then to put what they want in that facility?

J. Welch: If there is going to be a change to it they would have to reapply. If it's going to be the exact same thing then it goes with the property. They have to follow the exact same rules that the BZA set, and they cannot change anything. If they do they have to come back before the board for a new hearing.

D. Johnting: And if Durham's would add on or change it in any way they would also have to come back before the board.

C. Starbuck: My question for the Starbucks is how do you think this is going to impact your property values. If you decided that you needed to sell it do you think this will affect the value of your home?

J. Starbuck: Someone moving to the country to get away from the noise and such would not be happy moving next to a hall. It would be harder to sell our home.

J. Hufford: Do you have a plan in place for how late the parties could go.

T. Durham: Lights and music out at midnight, period.

Chairman Davis: Anyone else on the board have any questions or comments? Anyone else in the audience have any questions or comments?

T. Durham: Want to see what it would look like? The proposed plan I guess you'd say or whatever. We're not going to build a chicken house and it would be something that's classy and well kept. As far as what Bill was saying about the logging and all that, that's not an issue because if this takes off and went well, I would find someplace else to do that. I don't have to haul logs home. I do a lot of times just to sort them. It's no different than sorting eggs, somebody's going to pay a premium for the egg size they want. It's the same thing in the logging business. There are buyers looking for this type of log, and some aint and you lay them out and that's the only way I know how to explain it, it's no different than sorting eggs. The fact is we can all trip going out the front door of our own house and get hurt, you know. I guess the liability issue, that's why you buy liability insurance. I've got two million dollars in the logging industry you know. That's why we have insurance companies. Heaven forbid anybody got hurt or killed but that's part of life too and life goes on.

J. Welch: Does everyone have the Conditional Use Findings of Fact that Debra prepared and handed out? That spells out the three criteria that you are supposed to look at, it's 11.02. If you read through those that will give you the guidance of what you should be looking at.

Chairman Davis: Anyone else in the audience who would like to speak for or against?

C. Durham: Carla Durham, 2598 S 300 E, Winchester, Indiana. I would just like to speak on behalf of the concern about the liability. That was something that Trent and I obviously were concerned about and I have been doing my homework on this for about 5 years. As far as if you rent something like this the best policy is to have whoever is renting it supply you with a certificate of insurance which can be purchased from your insurance company and they have to present that to you thirty days in advance and it's for a million dollars. I would not rent it to anyone who did not have that did not present that to me. That would have to be part of the contract. And then as Trent said, we are insured too. I understand those concerns but I feel that we have done our homework on that and have covered that to the best of our ability.

Chairman Davis: Last call, anyone else have any comments? If not I will entertain a motion for a roll call vote. Motion made and seconded for a roll call vote. Debra.

D. Johnting: Bill Davis, no, Jim Hufford, no, Phil DeHaven, yes, Jason Hawley, no, Elijah Jones, no, Christie Starbuck, I abstain, and Myron Cougill, no. Motion denied.

Chairman Davis: What options do they have now, Debra.

D. Johnting: They can reapply in six months.

Chairman Davis: Is there any old business that we need to discuss? Any new business?

D. Johnting: We do already have petitions for July and August. So be planning on that.

Chairman Davis: With that I will take a motion for adjournment. A motion has been made and seconded for adjournment. We are adjourned.

Bill Davis, Chairman

Christy Starbuck, Vice-Chairman

Debra Johnting, Recording Secretary