

BZA MINUTES**MAY 21, 2019**

Members present: Jon Peacock, Jason Hawley, Bryn Albertson, Myron Cougill

Absent: Bill Davis, Don Calhoun, Kevin Carreno

Legal Representation: Jason Welch

Staff present: Debra Johnting, Recording Secretary, Kellie Barker, Building Commission Secretary

Others present: Ed Thornburg, Steve Barnes, Tim Thornburg, Zane Fisher, Greg Fisher, Susie Girton, Jeff Thorn

Chairman Hawley: It is 7:03 by my watch, and I'd like to call this meeting to order. It is Tuesday, May 21, 2019. Before we get started tonight I would just like everyone to know that with the members that we have on hand tonight, you will need a unanimous decision for us to approve any petition. Or, you may choose to postpone to the next date if you'd like to have more council members available. So I just wanted to make that out there and clear to everyone. I would like to make sure at this time that everyone has had a chance to review the minutes of our last meeting which was held on March 19, 2019, if everyone has had a chance to look over those I would entertain a motion to approve those. It has been moved and seconded to approve the minutes as written, all in favor say aye, opposed? The minutes are approved as written. Alright. First on the agenda we have BZA2019-10-V, Susie Girton, Township Trustee, White River Township Fire Department. For a variance to allow a cell tower to be erected by NLBC on their property, closer to the property lines and a building than is allowed by the current Randolph County Zoning Ordinance. Is there anybody here who would like to speak on behalf of this variance? If you'd like to please come forward and state your name and address for the record?

S. Girton: I'm Susan Girton, White River Township Trustee and I have with me tonight Tim Thornburg, he's our communications provider, and Steve Barnes, he's with NLBC and he's going to be working with us constructing the tower. And I brought these two because they have the technical knowledge of what we're doing that I don't have. Our address is 1023 North Old US Highway 27, Winchester.

J. Hawley: Ok, and have you received Article V, Conduct of Hearings?

S. Girton: Yes.

J. Hawley: And have mailings been done in a timely manner and appeared in the newspaper?

S. Girton: Yes.

J. Hawley: Alright, so why don't you just give us a little bit of background of what you are looking to do and what you are looking for from the board.

S. Girton: Ok, we have a 250' communications tower that we want to be constructed, sorry, 225' communications tower, Debra, do they have copies of the drawings?

D. Johnting: Yes, they have that.

S. Girton: Ok, it will be on the back side of our building. We'd like for this to be twenty feet from the back of the building. That's what we're asking for in the variance, to put this tower twenty feet from the back of the building. Randy has told Steve that we need to move it to the east.

S. Barnes: Just enough to get it over the line that's on the drawing there.

J. Hawley: Just this one let to be moved over?

S. Barnes: Yes, so the whole thing would be moved over so that it would be out of the other zoning area.

S. Girton: So we will move that down so it's all in the properly zoned area. With the change in your ordinance in the positioning of these towers, that's where Tim comes in on why we're asking for this variance. To bring this closer than the 250' away from our building.

T. Thornburg: That reason would be due to efficiencies in co-ax cable. With the tower 250' from the building, it's just too far. Co-ax cable presents a mechanical problem, it's too far to be aerial, and underground we would be replacing the co-ax cable every five years due to moisture.

J. Hawley: Now, are you replacing an existing tower as I understand?

S. Girton: We're building a new fire station up there and our old tower is 50 plus years old and it just isn't...it just doesn't want to move.

T. Thornburg: It's not feasible to move at all.

J. Hawley: Yes, I understand.

S. Barnes: And, you know the idea behind New Lisbon, NLBC, New Lisbon Broadband and Communications, we utilize towers all throughout Randolph County to provide high speed internet in the area. And we knew the situation with the fire department, and that they would need a new tower and they would have to do that at their own expense. And so a conversation got struck up that, well, what if New Lisbon built a tower larger than what you needed but would help us provide better service to more customers of high speed internet in rural Randolph County. And we would work together, New Lisbon would pay for the construction and the cost of the tower and then give the fire department lifetime access to 150' of the tower to put their communication equipment on. So, it was really a win-win for both of us but with it being the location of where it is, to build it, again, 250' away from the building was mechanically not a good idea for the electronics of it, for the communications as well as it's a little closer than it should be to the roadway. So as we were looking at pricing these towers, there are the stick towers that go up with the guyed wired and everything else that cause issues that if we would have a tornado and something would come across and clip the guyed wires, those could fall over and hit whatever. With this being a self-supporting tower, these are designed at every fifty feet, they have a reduction in size so if something hits they collapse down on themselves. They don't collapse and fall straight over to where it would be an issue with any type of falling into the street or anything else like that. Basically it's the same exact kind of design as the 200 foot tower that is at the jail. It is right up next to the side of the jail, again, the reason that it is there is because it needed to be there for communications for the 911 and everything for the county. And the goal of these towers is to be able to be built in a closer proximity to other things and not have to worry about that type of falling onto other

property. So that is the reason why we have proposed what we have proposed. And we understand why, with various towers, definitely have to have the offset with that if you have the guyed tower and if something happened and broke it off at the ground and it would fall clear over that distance. But with the type of tower we are proposing and the kind of construction it would be we didn't want to have the guyed wires in the way for the fire department, or into other parts of the property so we did go with a self-supporting tower to handle that.

J. Hawley: And would you be able to meet the condition to move the tower out of the other zone?

S. Barnes: Yes, yes, that's not a problem, it's just a matter of probably moving it about 5 feet towards the east and since there hasn't been any construction whatsoever, and we still have to make sure we meet all the FAA and FCC requirements for the placement of the tower. We have had that application in for about a month and we still have some FAA zones and things like that that we have to deal with but once we establish those then there will be no problem with that.

D. Johnting: Susie, on the issue of the building, since this will technically be a "residence" for full time firemen, did you want to explain to the board what happens there during bad weather?

S. Girton: Yes, we are a 24/7 department. If we have a tornado or severe weather situation in the area, our firemen are not going to be in that building. Our trucks are not going to be in the building. We're not going to leave everything there so that if something happens we lose everything all at once. They're going to be out where the problems are. What's the tower rated?

S. Barnes: For direct sustained winds of 125 mph. So, anything above that and you're going to have trouble with the building as well.

S. Girton: The building isn't going to be there anyway.

S. Barnes: So, yeah, the tower is designed with the wind loads, so we will put the dishes and antennas at the top of that, and so at the top of it, it is rated for 125 miles per hour of sustained winds.

S. Girton: I had just remembered on the way to town that Randy had asked me if we had in our policies or resolutions with the fire department, I told him that it was a policy that in the event of severe weather or problems the firemen and the trucks are out because that's what they do. And he wanted me to bring him a copy and I haven't done that but I will. Stacy Lewis, our former fire chief said yes, that it was there and I regret not bringing that tonight.

J. Peacock: I have a question, you said you needed to move the tower five feet to the southeast or something?

S. Barnes: Yes, yes, it would probably be closer to ten feet, do you have a diagram? Just so that that leg is not on the north property.

J. Peacock: How is that property, the north property zoned?

D. Johnting: R-1.

J. Peacock: And what is the south property zoned, residential?

D. Johnting: No, it's Commercial 2.

J. Peacock: And the driveway is going on both of them, residential and commercial?

D. Johnting: And that's fine, the zoning doesn't matter for the driveway.

S. Barnes: We just have to get the tower off the residential part on to the commercial. So that's a change we'll have to make.

J. Peacock: So, Tim, if you get straight line winds, 130 mph, I have lost two barns, ok, so I am a little gun shy here. So, if something comes along and it starts collapsing, you believe in these things I take it? It will just collapse every few feet down on each other if you get something bad. If it's bad, and it's from the northeast, where is that going to go? I'm just asking, I am not trying to cause trouble.

S. Girton: No, I understand, we have had this conversation around the table. And I made a phone call to the National Weather Service. And I worked with Kellie at the Sheriff's Department dispatching for a lot of years on midnights and got to know the folks down there. We were talking about your straight line winds, and the circulation you get during storms, and I said that this building sets at an angle, and I said this is going to be basically on the northeast side of our building, and he said the odds are slim to none that you are going to get a rotation or winds coming from that direction that are going to cause you a problem. Or even just winds that will be coming from that direction that will cause you a problem.

J. Peacock: One of my barns fell to the southeast, so, that's why I ask. It got my neighbor's barn south east of me.

T. Thornburg: We can plan for those kinds of things, but, the chances of if it falls—it could fall on the building, but the majority of the opinion from the professionals at the National Weather Service says that chances are slim that it's going to fall that way.

S. Barnes: What we have seen, and I get it, but as being a tower company, as we are throughout Wayne, Henry and Randolph Counties, we have 58 towers that we are up on whether it's a grain leg, cell towers or whatever, and so I am part of the National Organization for this kind of stuff, so I get all the nightmare pictures of these kinds of things of people doing stuff and whenever I see whether it be a grain leg that has gone through a tornado, or one of these towers that has gone through a tornado, generally, unless it's a guyed tower, they might break at the top because when you get down to the bottom it's using usually six inch by six inch quarter inch steel for everything and it's got all these cross members and it has to have that to make that happen and they normally bend and break at the top and don't fall all the way down. The challenge after that situation is getting it down safely with a crane or whatever to make that happen. So, the guyed towers I have seen those, I have seen those fall across and, maybe even fall across the top of somebody's barn in different ways and those kinds of things. But, these types of towers I am pretty confident in.

T. Thornburg: The towers are actually a lot stronger at the bottom than they are at the top.

J. Welch: And, it's their building and they're putting it up, so...

S. Girton: And we own the property around it, if it would fall to the southeast, it would fall and go out of our area, it would go into the flood plain and more than likely there wouldn't be any buildings there for it to fall on.

J. Peacock: Thank you for answering.

J. Hawley: Any other questions or comments?

M. Cougill: If it would fall to the west, would it reach out across the road?

S. Barnes: The only way that it could possibly really fall to the west and reach to that point would be if someone would have to--truthfully go and cut it, to have the base fall that way. And then it would still have to wrap over the top of the building which would make it even shorter to go through and pull it back. So it would be really, really difficult without somebody actually going out there with the proper tools to do that. And each leg would be 8-1" poles holding it down in the ground in ten feet of concrete. Honestly—I am building this thing because I want to send my guys to climb the thing. And they're going to be up at the top of it. And, there could be strong winds while they are up there and I want my staff to be safe. You know, we pay a million dollar insurance fee to make sure our stuff is protected from those kinds of situations so as I have gone through and talked to many professionals who are going to help us erect it, and they say there is absolutely no way that will ever fall and hit that road. Just because of the way the building will be, and the way the tower is designed to collapse there is just no way that that could happen.

J. Hawley: Ok, is that it, or are there any other questions? Anything else you would like to add? Ok, thank you very much for your time.

S. Girton: I would like to thank Debra for all the help she's given me, I appreciate it.

J. Hawley: Is there anyone who would like to speak against the cell tower? Not seeing anyone coming forward I will entertain a motion to vote on the proposal. A motion has been made and seconded to vote on this proposal. Roll call vote please?

D. Johnting: Jason Hawley, yes, Bryn Albertson, yes, Jon Peacock, yes, Myron Cougill, yes. Bill Davis, Kevin Carreno and Don Calhoun are absent.

J. Hawley: Ok, next on our agenda we have BZA2019-12-V, for Jeff Thorn. Looks like it's a variance to add an additional 16' to a 45' tall building for a total height of 61' to restore a steeple to a building that was formerly a church. If you would like to step forward and state your name and address for the record?

J. Thorn: Jeff Thorn, I live at 212 E Church Street in Lynn. The building that I am here about is across the street from my home. It's 209 E Church Street in Lynn.

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

J. Thorn: I have.

J. Hawley: Have the mailings been done in a timely manner and the newspaper been contacted?

J. Thorn: Yes, they have.

J. Hawley: Yes sir, then why don't you just tell us what you are looking to do?

J. Thorn: I'm more of a show you kind of person than I am at explaining. This church was built as near as I can tell based on the records somewhere between 1870 and 1886. It was the first Methodist Church in Lynn. I don't remember the steeple in my lifetime, but I do remember the belfry. And the belfry has been restored already. I have an old picture of the church that was taken in 1906.

J. Hawley: Yes, we have that.

J. Thorn: What I am wanting to do is add a simpler version of this, as lovely as this is it is certainly not practical and I am not sure it is anything that I can ever achieve. But I do have what I believe to be a good plan to finish the church as a building at least as a historical façade, where the building is saved.

J. Hawley: Is the intention to be residential, or...?

J. Thorn: The intention is to save the building. And I feel like I am about there. There are no plans for the interior. In the short term for me, it's just a place that I can go to for work with a wheel barrow. I am semi-retired, I have been in construction all my life. I have done a lot of design work, and it's in my face every day. When I bought my home in 2002, it was being rented out to some people. They owned it, and they sold it to somebody and they lived in it for awhile. And frankly, it was a mess. And, it came to me via a tax sale. Be careful what you wish for. Since 2014 I have slowly been working on it, improving it. I painted the outside, I restored the belfry and just made it better for me and my neighbors and I don't know where this church will go, if you want to call it a church. For me, as a contractor, I would just like to use it for bigger cabinet projects, and basically it makes sense to me as a garage. You know, storing supplies in it, but in order to do that I feel like the outside needs to be presentable. My sister lives across the street from me, next door to it, she lives in what used to be the parsonage so it is of value not just to the town but my family. And I enjoy it. I don't take lightly that I am asking for something outside of what the rules are, but I do think it is worth the time and effort. So, I would like your special consideration on this additional "cherry on top of the sundae", I guess.

J. Hawley: Ok, do we have any questions from the rest of the panel?

J. Welch: Can you tell us about how you would address the safety concerns of adding an additional 16 feet tower to the house in a residential area?

J. Thorn: Can you tell me what you feel like your concerns are?

J. Welch: Well, you're going to add a 16 foot tower to the building, obviously if it falls off there's going to be a problem, are you a professional designer? Who's designing the tower?

J. Thorn: I am. Me and my partner, he's the engineer and we both have a lot of experience with this. I can show you how we intend to build it if you like.

J. Welch: Well, it's not up to me, it's up to the board, but one of the areas of concern with a variance is you have to show that it's not going to be injurious to the public health or safety of the community. So, I think that's one thing that should be addressed to make sure that it's going to be safe if you're going to add this additional height to the tower so that's why I am asking you to talk a little bit about that.

J. Thorn: It's frame construction, the 16 feet is just really minimal of the construction itself, the steeple will set down into the belfry considerably almost that much again. Anchored in, with cross members and a plywood box around it. There's also plywood beams that are four layers thick, two feet high, sixteen feet back, that go straight back into the structure, that tie into the belfry that tie into the steeple. So, it is all connected. The construction itself, although it's a basic pyramid shape, which is increased during construction, the interior of it is like a corrugated box, that looks like this, it's not got a lot of mass, but like a pyramid, because of its shape it's pretty strong. If it did blow off, there's just not a lot of mass there to hurt anything.

D. Johnting: And Randy has asked you to submit plans before you obtained a permit?

J. Thorn: I showed Randy plans the first day, he said to bring them tonight, if you'd like to see them, and we'll do whatever Mr. Abel says, yes.

D. Johnting: So those will be in the office during construction if anyone has any questions.

J. Welch: Another thing the board has to decide in granting a variance, is whether strict application of the provisions of the Zoning Ordinance will result in practical difficulties in the use of the property. So, will there be any practical difficulties in the use of the property if you're not allowed to put the tower on the church.

J. Thorn: If I am understanding you're asking me would it be any practical sense to scratch the whole thing? Esthetically, yes. And it's historical.

J. Welch: So it's not going to affect your ability to use the building for cabinets and things like that, you would just prefer to be able to restore it to its historical shape.

J. Thorn: Yes.

J. Hawley: Yeah, because it feels like this is really going to be the cherry on the top of this whole façade project that you're doing, obviously to try to bring back to a historical representation of what it was, is that correct?

J. Thorn: Correct.

J. Hawley: Was there any other comments or concerns? Well, I thank you Mr. Thorn. Was there anybody else that would like to speak on behalf or against the proposal. Not seeing anyone approach, are we ready to proceed?

J. Peacock: Just a quick question, is there anything here that we need to learn more about? As far as the ballot? Are you comfortable with this?

J. Welch: It's up to each board member, to check the box you have to be comfortable, so if there are any additional questions anybody has in one of the areas this would be the time to address any one of those things.

J. Peacock: I'm not sure I disagree in any way with him doing this, but I am not sure we can fill this out.

D. Johnting: If this were being restored to be a church, the hearing tonight would be for a conditional use, to restore the church as it was, and give it a conditional use to be a church. Churches are conditional use in whatever zone they are in and are allowed in R-1. The reason why this is a little different, because at this time the goal is not to have this be a church. It would be difficult to restore this church back to a church without the steeple. I guess the problem is that he is wanting to restore this historically, but not necessarily to make it into a church. That doesn't mean that plans won't change, or that a church won't come along and offer to buy it or he would decide to donate it to a church who can't afford to buy it. At that time you could say this is definitely going to be a church and we need to put a steeple on it. Tonight you have to decide if you want to allow them to put the steeple back up without any confirmation of the final disposition of this building. You know Randy will be there to oversee the building and will make sure that the plans are followed. But you do have the ballot to consider.

J. Welch: I guess the practical difficulty would be from your perspective, that if you did choose to ever make it a church it would not be as likely to happen if you didn't put the tower on it.

J. Thorn: That's true.

J. Welch: So that would be your practical difficulty in not being able to restore it in that use.

J. Thorn: In every other aspect it already looks like a church. It's got Gothic Revival architecture, through and through, including the woodwork inside. It just has everything it used to have less the stained glass windows and the steeple.

K. Barker: If I might add as a resident of Lynn, I do drive by there on a regular basis and it has gone from the first picture in here, from an eyesore to something that is very, very nice, he has done a great job with it. With the way that some homes in Lynn have fallen into decay it is so nice to see that someone has taken the time to restore something rather than letting it fall down.

J. Thorn: Thank you very much.

M. Cougill: Are you just putting the steeple part, or are you also putting on the bell?

J. Thorn: I consider the front of it the tower, the belfry. A lot of people would call the tower and belfry one thing, I see it as three different things. There's the tower, the belfry, and then the steeple. The belfry was two thirds removed below the ridge. So we couldn't even fix the roof without getting above the ridge. Which is what you're looking at there.

M. Cougill: In this older picture of it, but you're not putting that back on?

J. Thorn: No, the question is are we putting a bell on it?

M. Cougill: Is it just sixteen foot? Or is what you're adding going to be sixteen foot?

J. Thorn: When we repaired what was left of the belfry, it went from being about five feet below the ridge of the main building, to being about five feet above the ridge of the main building.

J. Hawley: Does anybody else have any questions or concerns? Is everyone satisfied with Mr. Thorn's responses? Any other comments? All right, I have a motion to vote on the proposal, roll call vote please.

D. Johnting: Jon Peacock, yes, Bryn Albertson, yes, Myron Cougill, yes, Jason Hawley, yes, and Don Calhoun, Kevin Carreno and Bill Davis are absent.

J. Hawley: Congratulations, sir, and we look forward to seeing your progress.

J. Thorn: Thank you, I appreciate it.

J. Hawley: And last we have BZA2019-13-V, for Zane Fisher. A variance to build a 72' x 104' barn closer to the right of way than the primary structure. Would you please state your name and address for the record?

Z. Fisher: My name is Zane Fisher, my address is 9334 West 800 South in Modoc, Indiana.

J. Hawley: And did you receive Article V, Conduct of Hearings?

Z. Fisher: Yes, I did.

J. Hawley: Were mailings and newspaper done in a timely manner?

Z. Fisher: Yes.

J. Hawley: Ok, please tell us what you would like to do.

Z. Fisher: Ok, this is my dad, Greg Fisher, he's kind of helping me get this project started, he's dealing with the more technical things while I am busy at work most of the time. So he's probably better to tell you more about the project than I am.

G. Fisher: My name is Greg Fisher, my address is 9915 West Woodvale Drive, Losantville, Indiana. I appreciate you guys letting us pitch our variance to you. We are wanting to build a pole barn on Zane's property. It's a 70' x 104' foot barn. Please forgive us for being a little ill prepared, we didn't know we would actually get an opportunity to speak to you.

D. Johnting: No worries, the board has all the photos and information. The front of the barn is actually going to line up with the rear of the neighbor's home.

G. Fisher: Matt Netherly submitted all our paperwork, and I believe that what Matt was telling us is that the variance we are up against is the fact that the barn would extend out farther than Zane's house. And some of the problem with that is that his house is built to the back of the property. So it really limited us on the room up there and the limited space. Unfortunately this is practically the only spot on the property that's good for the barn and so if we don't get a variance we probably won't be building the barn anywhere.

D. Johnting: The land to the west looks unsuitable as well.

G. Fisher: Yes, there's a lot of dirt to move and it's really not practical. Even with that we'd have to turn the barn, and it's still going to be in front of the house. And we would have to move a mountain of

dirt. With that being said, Zane did talk to the next door neighbor, and explained things to him, and he is fine with the barn. Other than that, that's really all there is to say. It will have a 14' high ceiling, 70' wide and 104' feet long. And roughly guessing with my other measurements there, 250' from the road. That's about it. We're going to use the barn for storage, hay, equipment, hopefully he'll let me put a few things in there.

J. Hawley: And it's a pole barn?

G. Fisher: Yes, and he may put a few horses in there. I think that's about all.

J. Hawley: Any questions? Any questions from the audience?

J. Peacock: Is there any reason not to do this?

D. Johnting: This is an issue we have had with the current ordinance. Picture this in some places and it would not be a good idea, in other places--like this situation--it really does not affect the neighbors at all. We need to do something that will work for all situations and it's hard to do.

J. Hawley: Obviously, when the house is at the back of the property, and you want a pole barn there's nowhere else to go. I don't see anyone else who could speak in favor or against this variance.

G. Fisher: The neighbor beside us who we let know that we'd like to build this was notified and he said he didn't care.

D. Johnting: I didn't receive any calls on this from the neighbors.

J. Hawley: If there are no other comments, I will take a motion to vote on the proposal.

D. Johnting: Bryn Albertson, yes, Jason Hawley, yes, Myron Cougill, yes, Jon Peacock, yes, and Kevin Carreno, Bill Davis and Don Calhoun are absent.

J. Hawley: Motion approved, congratulations.

G. Fisher: Thank you.

Z. Fisher: Thank you.

J. Hawley: Ok, if that's it, I will entertain a motion to adjourn. And we are adjourned. Thank you for coming tonight.

Jason Hawley, Chairman

Debra Johnting, Recording Secretary

Bill Davis, Vice Chairman