

**BZA MINUTES**

**JUNE 15, 2009**

Members present: Larry Amspaugh, James Trautman, Bill Davis, Charles Addington, Dale Clevenger, Christy Starbuck and Lee Deguise.

Staff present: Cathy Flatter, Executive Director, Jamie Stump, Recording Secretary.

Others present: See attached sheet.

The meeting was called to order by Chairman, Bill Davis at 7:00 PM.

Chr. Davis: I would like to thank everyone for showing up tonight. Today's date is June 15, 2009. I would like to approve the prior meetings minutes as presented.

L. Amspaugh: So moved.

L. Deguise: Second.

Chr. Davis: All in favor of the motion signify by saying aye. "Ayes". Opposed (none).

BZA 2009-9-SP (Vali Wolfe, White River Township)

Chr. Davis: Our first petition on the agenda is Vali Wolfe. It's a Special Exception. Would you please come up here. For the record this is a recorded meeting so please any time that you are up here, at any time you are speaking, please state your name and your address and your purpose. As stated before this is BZA 2009-9-SP. Vali go ahead. Oh, wait. Did you receive the Article V, Conduct of Hearing?

V. Wolfe: Yes.

Chr. Davis: Jamie was it published in a timely manner?

J. Stump: Yes.

Chr. Davis: Now you may go ahead.

V. Wolfe: My name is Vali Wolfe and I live at 1897 W. St. Rd. 32 in Winchester. We are just looking for a Special Exception for putting in a Day Spa at our location. Very little modification to the actual home, mostly due to wanting to use the outdoor space, is what we are looking for. So it would mostly be just to enhance the outdoor area and use the sun screen and garage that are currently at the location. I think the exception part was because there would be a total of 4 employees rather than just myself and one. It will be me and three others. That was the only thing I think we ran into that might be necessary for a Special Exception.

C. Flatter: Are you going to have your travel agency at this location also?

V. Wolfe: Yes but it is not, the travel agency will just be phone. It's all customer based far away so its not walk-in business.

Chr. Davis: Are there any members of the board that have any questions for her? Is anyone in the audience that would like to speak for or against this? I take that as a no. This is pretty simple, Vali. I would entertain a motion to take action.

C. Starbuck: So moved.

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L. Deguise: Second.

Chr. Davis: All in favor of the motion. "Ayes". Opposed (none). I would entertain a motion for a roll call vote.

J. Trautman: So moved.

L. Deguise: Second.

Chr. Davis: All in favor of the motion say aye. "Ayes". Opposed (none). Jamie we are ready for a roll call vote.

A roll call vote was taken: Dale Clevenger, yes; Charles Addington, yes; Bill Davis, yes; Larry Amspaugh, yes; Lee Deguise, yes; Christy Starbuck, yes; James Trautman, yes.

C. Flatter: The petition has been approved.

V. Wolfe: Thank you.

Chr. Davis: Good luck.

V. Wolfe: Thank you very much. I appreciate it.

BZA 2009-10-CU (City of Union City, Union City, IN)

Chr. Davis: Our next case is BZA 2009-10-CU. It is a Conditional Use for a wind turbine. Please state your name and your purpose.

T. Kuykendall: Tony Kuykendall with Performance Services. I am here on behalf of The City of Union City. Our address is 8777 Purdue Rd., Indianapolis, Indiana 46268.

Chr. Davis: Did you get the Article V, Conduct of Hearing?

T. Kuykendall: Yes.

Chr. Davis: Jamie was it published in a timely manner?

J. Stump: Yes.

Chr. Davis: Okay Tony you are up.

T. Kuykendall: Here again tonight to kind of, as the City and our company have worked together on the Wind Energy Project and determining the final location, we worked with the city and looked at the well field they currently own on the southwest portion of the city, it seemed to be a very attractive site and we wanted to make sure we have it far enough away from the wells and home owners and the actual park itself. I actually have a handout that I would like to pass out. It just shows the location on there. If that is okay with each board member.

Chr. Davis: Tony you are aware that that will stay part of the record.

T. Kuykendall: That is fine. Absolutely.

L. Amspaugh: Is this what you have?

T. Kuykendall: Yes, something similar to that. If you'd like it you can use it, if not, you can throw that away.

C. Flatter: Tony I was just wondering, since we did approve a petition a couple months ago for Union City, if you would just explain to them what happened to the location before.

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T. Kuykendall: This was kind of a joint venture with Randolph Eastern School Corporation and what seemed to work out really well with what we did, the location that is just east of the Waste Water Plant off of Jackson Pike, that will now become the location of the schools wind turbine and the city preferred a couple other locations that would allow it to be even more visible coming in off State Road 32 and such so we had about 2 or 3 other locations that we were considering and met with some of those property owners and it just turned out that the city owns the well field and it does make it a simpler process for us to be able to construct the wind turbine on. So we landed on that site and that is why we are here tonight to kind of finalize the city site. Their previous location is now going to be the schools location.

C. Flatter: These will still be constructed simultaneously to save cost for the city and the school at the same time, is that correct?

T. Kuykendall: Yes. The overall plan of strategy has not changed what-so-ever. It is the same machine and the same manufacturer and the same time line. We've just gone with this new location.

L. Deguise: Cathy question. Since they are now, the original applicant for that location was the city and now that location is going to change to the school, are they going to have to do this again because of that?

C. Flatter: For the schools location?

L. Deguise: But that was the city's location and it is now the schools location.

C. Flatter: But the BZA approved that site for wind turbine, so we told the school that they could go ahead and use that location and then Union City, since they changed their location, would have to come back to the BZA. That is why Tony is here representing them tonight.

L. Deguise: I was just asking about the legality since that applicant was approved.

C. Flatter: No.

L. Deguise: Okay.

Chr. Davis: Any other questions from the board? Anyone in the audience? Please come up and state your name and address.

M. Whitesel: My name is Mick Whitesel and I we live 8796 Springhill Road, Union City, Ohio. Along with my brother, my wife and my sister-in-law, we own property on two sides and are purchasing property on the third side of this site and I, we need more information about what is going on and how long the blades will be and just more about it. We had no idea. No one said anything to us. We got this letter.

T. Kuykendall: Sure. I will just give you a recap and then you can ask any questions and I will do my best to answer those. We are looking to install, it is a Nordic Wind Turbine. It is a 1 megawatt system. Total height, the tower itself is 70 meters, which is about 230 feet tall and then you have, it is a 2 blade wind turbine. The blades themselves are 100 feet long each. So your total height from the very base to the tip of the machine, with the blades straight up in the air is going to be 330 feet. It is going to encompass on the base, it is going to be about a 50' x 50' pad, as far as the base of the actual unit itself and the gravel and transformer will be located at the base. There are no guide wires. It's just a mono pole, steel tubular construction.

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T. Kuykendall: We plan to use this road coming in that is the cities and have that located between the two well fields set back so it doesn't interfere with the well systems.

M. Whitesel: We also operate this ground where it is going to sit.

T. Kuykendall: I wasn't aware.

M. Whitesel: Yes, I was kind of shocked when I got this because nobody said a word to me about it at all.

T. Kuykendall: The only addition in pass that you will have will be a road that you will come off the existing bend, the last bend, that will go directly to this site here.

M. Whitesel: Okay, the site that you have here, see this? Is that still 100 feet, will the blades be 100 feet from the property line?

T. Kuykendall: Yes.

M. Whitesel: It will not hang over the property line.

T. Kuykendall: This is just a mapping system but I can get you those exact coordinates if you would like.

M. Whitesel: I was imagining one of those mega wind turbines you see and I was imagining the blades being sticking out way over the property lines and so forth. Another question I have, where you are located, there is a large tree line here and a woods back here, that is not going to impact the operation of that turbine?

T. Kuykendall: The woods to the east, can they impact it? Yes, any sort of obstruction can affect wind but fortunately the predominant prevailing wind is south and actually west so we are going to be able to capture most of the energy producing winds. That is what we look at. From the east, that is where the least amount of prevailing winds come from. That has already been taken into account.

M. Whitesel: We have this map here that was sent to my brother, which we had the map and we knew about the hearing but I was just kind of surprised that nobody had approached us or said anything at all to us being that we own the property here and here and we are buying this piece right here, so three sides of that we own. That really surprises me that nobody even commented to us or even came to us and talked about it.

T. Kuykendall: Part of that may be it came up pretty quick over the last few weeks here and for us working with the city and the school trying to get these projects installed to be operational before the end of this year because there are tax incentives and advantages for both the city and the school for us to do so. This site kind of came about at the very end when I was talking with Monte Poling and Bryan Conklin. I said, "this is a good area, let's at least get this in front of the BZA", and I am sure if Monte would have had more time he would have brought you up to speed or we will bring you up to speed as this moves forward, if this is approved.

M. Whitesel: So what happens to any existing tile lines which run from our property here, that do run over to this stream. We have tile that comes through that area. If you are going to be laying lines, so those tiles will be taken care of and repaired?

T. Kuykendall: Yes. Basically our civil engineer and our structural engineers will have to work with that existing lay out to ensure that if we disrupt that it is either repaired or we can bypass it in some way. But that is all going to happen as far as the construction and design phase. If that site is selected.

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M. Whitesel: Is this the only one you are intending to put up or you looking down the road at putting more turbines in this area?

T. Kuykendall: That is the only one there and there is a, the schools location is up here just east of the Waste Water Treatment Plant. At this point in time, those are the only two that we see being installed this year. We have others within the county but in your local area right now, those are the two that are planned.

M. Whitesel: What are these to power then? This one being put here, where is the power from that to go to? What is that used for?

T. Kuykendall: Both wind turbines are going to deliver the energy back onto the grid so we will interconnect with, you can see those over head power lines that run, and they will be metered so the school and the City will be compensated for the energy produced and they can use those funds to pay down their own utility bills.

M. Whitesel: Okay. Someone said in the community, of course there is talk all around it, that was going to be directed to the school. I said, "How are you going to direct the power to the school itself?" That would be almost impossible. I understand what you are going to be doing. You are going to put it into the grid and then they get compensated for that.

T. Kuykendall: Initially you are right. That was the plan initially and a lot depended upon the interconnect and what we were allowed to do with the utility provider.

M. Whitesel: I would like to be kept informed on what is going on in this site.

T. Kuykendall: If you are on all three sides you are going to be kept up.

M. Whitesel: It just really surprises me that no one said anything.

C. Flatter: I imagine you could go and talk with Monte any time and he would be more than glad to keep you up on what is going on. They just had another meeting tonight. He and Bryan both had another meeting.

L. Amspaugh: Monte is on vacation.

C. Flatter: And Bryan had another meeting.

L. Amspaugh: This came up two weeks ago so Monte knew about it and then left like right after that.

C. Flatter: Right but Monte stays right on top of it so if you have any questions or if you see something that is going on that you are not sure of and haven't already been informed of, the City will be more than glad to talk with you.

M. Whitesel: Okay. A lot of the City sewers run through our ground. We work with them and have been for years. We've taken care of the leaves in the town for Union City for years so they have not had to haul them any place, a lot of things done and it just shocked me that no one said anything. That is why I am here.

C. Flatter: It's probably just one of those things that with the hurriedness of this petition, that fell through the cracks.

D. Clevenger: Mick, would you be opposed to it?

M. Whitesel: Well it's only one and I was imagining one of those big ones. It just mainly bothers me that I didn't know what was going on. Now I understand more about it and it is not as big as I thought it was going to be so it is not going to affect me as much as I thought. It affects your property value too, adjacent property values. Nobody is going to want to build next to a turbine.

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D. Clevenger: Would you be opposed to it?

M. Whitesel: I need to talk to my wife about it. We want to find out more about it. She is with me. We are not anti towards helping Union City. They have always worked with me and we have worked with them for years. It has been a good working relation. The way Union City, it's not growing any how so I can't say right now I would be opposed to it. I just wanted to make sure that as far as the lines, my tile, and if I have future tile that I need to put in, that I am going to have access to get the tile over to that stream, which is close. Having property on three sides, I have to have access to get rid of my water and take care of things too. You start putting lots of lines in and my access gets messed up.

T. Kuykendall: We don't want to do that.

D. Clevenger: I think you should have been informed before hand.

M. Whitesel: I think so too.

C. Flatter: That is what the letter was. You are required to be notified and I understand what you are saying about being informed but at least you did receive the letter that notifies you of the hearing.

M. Whitesel: Well my brother received the letter. I should have received a letter also, as a joint property owner.

C. Flatter: All we have is the way the taxes are being sent. We have no other way of notifying people other than what the tax records are in the Courthouse. That is how we require them to be notified.

M. Whitesel: Okay thank you.

T. Kuykendall: We will go through all that with you.

M. Whitesel: Okay. Thank you.

Chr. Davis: Is there anyone else that would like to speak? Members of the board have any more questions? I would entertain a motion for action.

C. Addington: So moved.

L. Deguise: Second.

Chr. Davis: All in favor of the motion signify by saying aye. "Ayes". Opposed (none). I would entertain a motion for a roll call vote.

L. Amspaugh: So moved.

C. Starbuck: Second.

Chr. Davis: All in favor of the motion signify by saying aye. "Ayes". Opposed (none). Jamie we are ready for a roll call vote.

A roll call vote was taken: Jim Trautman, yes; Christy Starbuck, yes; Larry Amspaugh, yes; Lee Deguise, yes; Dale Clevenger, yes; Bill Davis, yes; Charles Addington, yes.

C. Flatter: You have been approved.

T. Kuykendall: Okay. Thank you again for your time.

J. Trautman: See you next month.

T. Kuykendall: See you next month.

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BZA 2009-11-V (Culy Construction, Winchester, IN)

Chr. Davis: Our next petition is a variance on a yard setback requirement.

R. Culy: Good evening.

Chr. Davis: Please state your name and address and purpose.

R. Culy: My name is Ron Culy. My home address is 1424 E. Base Road in Winchester. I am representing Culy Construction at 610 N. 100 East.

Chr. Davis: Ron did you get an Article V, Conduct of Hearing?

R. Culy: Yes.

Chr. Davis: Jamie was that published in the proper format?

J. Stump: Yes.

Chr. Davis: Go ahead Ron.

R. Culy: Very simply. We just need to build another pole type structure. We are expanding a new operation into our business that requires housing, when it is not in operation. It has several pieces to it and we need a place that when it isn't out on a job we can get it inside and protect it and keep it all together. It is just a pole structure. The reason for the variance is that we are behind the church, White River Friends Church and I think this brings us just slightly closer to the property line than what the original setbacks are. That is the reason for the variance.

C. Flatter: Ron on our site plan that Kenny brought into the office, I think we neglected to change the distance that you are now going to have between the buildings. Between the two structures it is going to be what?

R. Culy: I think the distance between the two structures now is going to be 14 feet, I believe.

C. Flatter: Fourteen, okay. So on your site plan where it says 4 it is 14. We should have changed that on there and we didn't get that changed. So that puts it 10 feet closer to that, what would be the east property line and so that is the reason they are here tonight because that is a 15 foot setback requirement. You can see that it is 55 total feet currently from the existing structure and you put the 14 feet and the 30 feet and so you have 44 feet. So it is 6 feet. I just couldn't issue the permit with it that way.

Chr. Davis: Do any members of the board have any questions? Anyone in the audience? Pretty simple. I would entertain a motion for action.

D. Clevenger: So moved.

C. Addington: Second.

Chr. Davis: All in favor of the motion. "Ayes". Opposed (none). I would entertain a motion for a roll call vote.

C. Starbuck: So moved.

L. Deguise: Second.

Chr. Davis: Jamie we are ready for a roll call vote.

A roll call vote was taken: Lee Deguise, yes; Bill Davis, yes; Larry Amspaugh, yes; Christy Starbuck, yes; Charles Addington, yes; Dale Clevenger, yes; Jim Trautman, yes.

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C. Flatter: Okay Ron, it has been approved. Kenny can come in and pick up the permits.

R. Culy: Okay. Thank you very much for your consideration.

BZA 2009-12-V (Donald Slaven, Lynn)

Chr. Davis: Our last petition is BZA 2009-12-V. A variance on a side yard setback requirement and a variance on a street right-of-way setback requirement. Donald Slaven. Please state your name for the record.

D. Slaven: I am Don Slaven. I live at 229 E. Church Street, Lynn, Indiana. I need to tear down the old house that is there and put a new modular in and I can't get it back 55 feet from the center of the road.

Chr. Davis: Don before we get started, did you receive an Article V, Conduct of Hearing?

D. Slaven: Yes.

Chr. Davis: Jamie was it published in a timely manner?

J. Stump: Yes.

C. Flatter: I think I will just go ahead and explain to the board that Mr. Slaven has a county ditch that runs through the east side of his property and because the State Law requires that you have to be 75 feet from the right-of-way, if he were to abide by that then he couldn't do anything with his property. The Drainage Board has already given him approval to be able to set his home closer than that but to still give the county enough area to come in and do any kind of work on the county ditch if they would have to is why he needs to scoot this home clear over to the west side of his lot, as close as he possibly can to give them enough area to come through there. It is definitely going to be an improvement on the property. I have not had anybody in the area that's been opposed to what Mr. Slaven is wanting to do. As a matter of fact, I received a call from Mrs. Polly's daughter just a few days ago and they are totally in favor of allowing Slaven's and they are moving closer to their property than anybody's else's property that was notified.

Chr. Davis: Does any members of the board have any questions?

L. Amspaugh: Is the front door going to be facing Church Street?

D. Slaven: Yes it will.

L. Deguise: Did you get any phone calls or any comments at all from the City of Lynn?

C. Flatter: No. Well I spoke to Maxine Parrott who is a Town Council Member and on her behalf, she is totally in favor of allowing Slaven's to do this.

L. Amspaugh: There is or was an existing house on the lot?

D. Slaven: I am kind of hard hearing. What did you say?

L. Amspaugh: Is there an existing house on the lot now or was there?

C. Flatter: Yes. You live on the property now?

D. Slaven: I live on the property now.

L. Amspaugh: You live in the house that is there now?

D. Slaven: Yes, in the house now.

L. Amspaugh: And you are going to tear it down.....

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D. Slaven: It will be tore down and this other one will be set in about 10 foot back further than what it is now.

L. Amspaugh: Are you going to put a front porch on it?

D. Slaven: No I probably won't. Not right now anyway.

L. Amspaugh: I was going to say there is another way to get around that part, just don't tear all the foundation out. Leave a corner some place and do the rest of the work and put your house on it and go on.

D. Slaven: Yes.

Chr. Davis: Any other question or comments from the board? Members of the audience? I will entertain a motion to take action.

J. Trautman: So moved.

C. Addington: Second.

Chr. Davis: All in favor. "Ayes". Opposed (none). Motion for a roll call vote.

D. Clevenger: So moved.

C. Addington: Second.

Chr. Davis: All in favor. "Ayes". Opposed (none). Jamie we are ready for a roll call vote.

A roll call vote was taken: Lee Deguise, yes; Bill Davis, yes; Jim Trautman, yes; Christy Starbuck, yes; Dale Clevenger, yes; Larry Amspaugh, yes; Charles Addington, yes.

C. Flatter: Okay Mr. Slaven, it has been approved.

D. Slaven: Thank you.

C. Flatter: Your welcome.

Chr. Davis: Good luck.

C. Flatter: You let D & J's know they can come up and file for the permits and get the permits now.

D. Slaven: Okay, I will do that.

The meeting adjourned at 7:30 PM.

THE NEXT REGULARLY SCHEDULED MEETING IS JULY 20, 2009 AT 7 PM IN THE COMMISSIONERS CONFERENCE ROOM OF THE RANDOLPH CENTER FOR FAMILY OPPORTUNITY, WINCHESTER, INDIANA.

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Bill Davis, Chairman

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Christy Starbuck, Vice Chairman

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Jamie Stump, Recording Secretary