

BZA MINUTES

JUNE 16, 2008

Members present: Charles Addington, Dale Clevenger, Jim Trautman, Roger Hoover.

Members absent: Gary Moore, Bill Davis, Christy Starbuck.

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

Legal representation: Robert C. Oliver.

Others present: See attached sheet.

The meeting was called to order by Chairman James Trautman at 7:00 PM.

Chr. Trautman: First on the agenda will be the approval of the minutes of May 19th, 2008.

D. Clevenger: So moved.

C. Addington: Second.

Chr. Trautman: I have a motion and a second. All in favor of the motion signify by saying aye. "Ayes". Opposed (none).

BZA 2008-12-V (Jason Campbell)

Chr. Trautman: First on the agenda is Jason Campbell, BZA 2008-12-Variance. This is a recorded meeting so please state your name and what you want to do. First of all did you receive an Article V?

J. Campbell: I'm not sure.

Chr. Trautman: A Conduct of Hearing, telling you what....

J. Campbell: Yes I received all the proper paperwork, I believe.

Chr. Trautman: Please state your name and what it is you want.

J. Campbell: Jason Campbell.

Chr. Trautman: Was everything mailed and returned properly?

J. Stump: Yes.

J. Campbell: I guess I am applying for a variance from the 15' off the adjoining property owners line. I don't know if you guys have pictures up there or anything like that,

C. Addington: We have pictures.

J. Campbell: Well then you can see on there how the driveway curves around and I want to put up a 30' x 40' pole building 10 feet off my neighbor's line and I have conferred with my neighbors. They said they weren't going to make it to the meeting this evening but they have no problems with it.

C. Addington: Which side of the circle?

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J. Campbell: It would be on the west side.

C. Addington: West side.

J. Campbell: And if I go the 15 feet it will dig right into that circular driveway. Five foot would give me enough to where I could still utilize it and drive around there. If I go 5 more feet or any more I am going to dig into the circular driveway basically, couldn't get into an overhead.

C. Addington: I see how it is here. You have a drawing of this.

J. Campbell: Yes.

Chr. Trautman: Are there any questions from the board?

C. Addington: When do you plan on doing this?

J. Campbell: As soon as possible.

Chr. Trautman: Because there are four members here tonight you will have to have all four members approve your variance or you will be rejected or you can ask for a continuance for next month where hopefully there will be more members here or you can go with what we've got tonight.

J. Campbell: That is you four gentlemen?

C. Addington: It will take four positive votes.

Chr. Trautman: It will take all four votes now or you can ask for a continuance.

J. Campbell: My neighbors don't have a problem with it. The farmer who farms their land they rent it out, and he is still 20 feet off to the west of that property line farming now so I mean hopefully if my neighbors don't have an issue with it then I hope you gentlemen don't as well. I wouldn't hopefully need a continuance. If indeed I do need am I able to come back next month and....

C. Flatter: No if they go ahead and vote tonight Jason then you have to wait 6 months to file again or a motion can be made at a meeting by a member and it has to be unanimously approve to put it on the agenda sooner than 6 months. So that is why we added that opportunity to request the continuance because we do have three members that are absent tonight.

J. Campbell: No I don't think so.

Chr. Trautman: Okay then I will entertain a motion to take action on this.

D. Clevenger: So moved.

R. Hoover: Second.

Chr. Trautman: All in favor say aye. "Ayes". Opposed (none). I need a motion to take a roll call vote.

D. Clevenger: So moved.

C. Addington: Second.

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

A roll call vote was taken: Roger Hoover, yes; Charles Addington, yes; Bill Davis, absent; Gary Moore, absent; James Trautman, yes; Christy Starbuck, absent; Dale Clevenger, yes.

Chr. Trautman: It has been approved.

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- C. Flatter: Jason all you have to do is come back in and file for your permits.
J. Campbell: Which I think, haven't I done that?
C. Flatter: Do we have his permits?
J. Stump: I only have ours. Not the Building Permit.
J. Campbell: I think I filed for two different permits. Yes. The checks already cleared the bank.
C. Flatter: Why don't we just mail it because we don't have the Building Permit. We will just put it in the mail.
J. Campbell: Okay.
C. Flatter: That is it.
J. Campbell: Thank you guys.

BZA 2008-14-CU (Randolph County Casa Inc.)

Chr. Trautman: Next on the agenda is Randolph County Casa Incorporated. A Conditional Use hearing. Yes sir.

R. Cook: My name is Robert Cook and I am an attorney practicing law here in Winchester, Indiana and I am representing Randolph County Casa which is now known as Randolph County Kids Inc., in their petition for a conditional use of a building for church purposes. The building is being located in a residential use property. Believe that you have been provided with the location of this building and we currently have an agreement for the sale of this property to individuals who want to use it for a church. A condition of that sale is that they use it for a church. So that necessitates us appearing before you as the zoning ordinance requires approval of the Board of Zoning Appeals to have a church be used in a residential area. The history of this building from 1977-1988 this real estate was owned by the Community Bible Methodist Church and as predecessor of the Winchester Gospel Tabernacle, although that might be a little bit before my time, Mr. Oliver might well remember that it was used for church purposes.

B. Oliver: I remember the candy store.

R. Cook: Since 1988 the petitioner has owned the real estate and the improvement has been used for meetings for alcoholics anonymous and narcotics anonymous. As previously stated we've entered an agreement. The buyers intend to use the real estate for church purposes. I talked to the buyers today and the church services would be held Sunday morning and Sunday evening and Wednesday evening. It is going to be a brand new church so I don't think that you will see an immediate swelling of the ranks and it is going to be over a period of time. The church parishner, we have permission from Overmyers to use their parking lot provided we provide a certificate of insurance of at least some assurances that Overmyers will not be liable. There is also street parking on Meridian Street next to the old building. I believe, there is also parking on Third Street but I don't believe that we would like to use that. In any event, the parking along the street would be for a limited period of time. Since Mr. Oliver remembers getting a piece of candy, this improvement was constructed prior to the enactment of the zoning ordinance so in your zoning ordinance there is are three requirements that need to be met and you have to have Findings of Fact as to those three requirements.

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R. Cook: Now one of those, “is all construction and development is in conformance with developmental standards applicable in the zoning district where this real estate is located.” Well that would be true and if it is not true then they are grandfathered in. The use, we would contend that “the use of the real estate is a church and adheres to the general character of and will not be substantially detrimental to the use and development in the vicinity of the real estate.” All the abutting real estate is developed. The north side is residential and on the south side is manufacturing. There is no other development to be had in the neighborhood and we would also assert that there are no adverse effects on the use and value surrounding the properties requiring any additional improvements and amenities on the real estate. We are requesting the approval of our petition and request the board to grant a conditional use of this real estate for the use of a church. We will entertain any questions.

Chr. Trautman: Before you continue, do you understand....

R. Cook: We will waive that.

Chr. Trautman: Was all the notices sent out and received in a timely manner?

J. Stump: Yes.

Chr. Trautman: And you did receive an Article V?

R. Cook: Yes whatever the zoning office was supposed to give me I received it. Do an excellent job I might add. I have prepared, the zoning ordinance requires written Findings of Fact, I have prepared those written findings and they have been distributed to you. I have faxed Mr. Oliver a copy at least 5 minutes before this meeting. I don't know if he's had a

B. Oliver: Yes I had a chance to read it 2 minutes before the meeting. That and a piece of candy you sent me, I find that those are in good form and I would suggest that in the motion to take action, you approve the written findings that have been submitted.

R. Cook: There are some matters I will have to fill in on that.

B. Oliver: Right. I think most of those are things we can fill out if I am correct.

R. Cook: Cathy can I e-mail this to you?

C. Flatter: As of today, it was working.

R. Cook: Okay. So you can fill out the rest of it?

C. Flatter: Yes.

R. Cook: Okay.

Chr. Trautman: I entertain a motion to take action and approve these Findings of Fact. Is that right?

B. Oliver: A motion to take action and then a roll call and adopt....

Chr. Trautman: Adopt these and thenokay. I need a motion to take action on the adoption of these.

D. Clevenger: So moved.

C. Addington: Second.

Chr. Trautman: All in favor of the action signify by saying aye. “Ayes”. Opposed (none). We need to have a roll call vote for the approval of the written Findings of Fact for the petition.

D. Clevenger: So moved.

R. Hoover: Second.

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

A roll call vote was taken: Roger Hoover, yes; Charles Addington, yes; Dale Clevenger, yes; Bill Davis, absent; Gary Moore, absent; Jim Trautman, yes; Christy Starbuck, absent.

C. Flatter: Do you want them to go ahead and sign one for you?

R. Cook: You got things to fill out on this.

C. Flatter: I didn't know.....

R. Cook: Take this. Whenever you get it you get it.

The meeting adjourned at 7:20 PM.

THE NEXT REGULARLY SCHEDULED MEETING IS JULY 21, 2008 AT 7:00 PM
IN THE COMMISSIONERS CONFERENCE ROOM OF THE RANDOLPH CENTER
FOR FAMILY OPPORTUNITY, WINCHESTER, INDIANA.

James Trautman, Chairman

Dale Clevenger, Vice Chairman

Jamie Stump, Recording Secretary