

BZA MINUTES

APRIL 20, 2009

Members present: Dale Clevenger, James Trautman, Charles Addington, Bill Davis, Lee Deguise.

Members absent: Christy Starbuck, Larry Amspaugh.

Legal representation: Robert C. Oliver.

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 want to thank everybody for showing up here tonight. This is a recorded meeting so any time you are up here please state your name and what your purpose is. I would like to take a motion to approve the minutes from February 23rd.

D. Clevenger: I make a motion to approve the minutes without reading.

J. Trautman: Second.

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

BZA 2009-2-CU (Jonas Stoltzfus, Union Township)

Chr. Davis: First case is Jonas Stoltzfus. You can come on up to the front. This is BZA 2009-2-CU. It is a conditional use for a school in an agricultural zone. I'm sorry, you can sit right there if you would and once again please state your name and address for the record.

J. Stoltzfus: Jonas Stoltzfus 3649 W. 1050 South, Williamsburg.

Chr. Davis: Thank you. Please share with us what you would like to do.

J. Stoltzfus: Build a one room school house.

Chr. Davis: I guess I need to back up, I need to ask Jamie.... Did you receive the Article V, Conduct of Hearing?

J. Stoltzfus: Yes.

Chr. Davis: Jamie did we get all the notice back in time?

J. Stump: Yes and it was published in a timely manner.

Chr. Davis: Ok. You just want to build a school?

C. Flatter: How many students do you think you will have in this Jonas?

J. Stoltzfus: Twenty-two.

Chr. Davis: Do any of the board members have any questions for him?

L. Deguise: I do for Cathy. Cathy does his layout and drawing meet...

C. Flatter: Pardon me.

L. Deguise: Does his drawing and layouts of where the school house goes, that he gave us, it meets all the setbacks and regulations?

C. Flatter: Yes.

L. Deguise: That is the only question I have.

Chr. Davis: If the board doesn't have any more questions or comments, are there any members in the audience that would like to speak for or against? I take that as a no. I entertain a motion to take action.

D. Clevenger: So moved.

L. Deguise: Second.

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

J. Trautman: So moved.

L. Deguise: 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: Charles Addington, yes; Dale Clevenger, yes; Lee Deguise, yes; Bill Davis, yes; Larry Amspaugh, absent; Christy Starbuck, absent; James Trautman, yes.

C. Flatter: You have been approved.

J. Stoltzfus: Thank you.

C. Flatter: You just have to come in and get permits before you start construction.

J. Stoltzfus: Okay. So we are dismissed?

C. Flatter: Yes.

J. Stoltzfus: Thank you.

Chr. Davis: Just for the record this is only my second time up here so please bear with me.

BZA 2009-3-V (Jason Adams, Winchester)

Chr. Davis: The next petition on the agenda is Jason Adams. He is asking for a variance to place an accessory building on a vacant residential lot. Please state your name and address.

J. Adams: Jason Adams and I live at 428 Carl Street.

Chr. Davis: Did you receive an Article V, Conduct of Hearing?

J. Adams: Yes.

Chr. Davis: Jamie did we get everything back?

J. Stump: Yes.

Chr. Davis: That was published in a timely manner?

J. Stump: Yes.

Chr. Davis: Please present what you are wanting to do.

J. Adams: I am just wanting to build a storage shed on that property.

C. Flatter: The main reason for the variance is because in a residential zone when there is not a principal building on the lot, you can not build an accessory building without filing first for this variance. Do you have plans of using this lot for anything ever?

J. Adams: Not really. Just gardens and stuff like that.

C. Flatter: Okay.

Chr. Davis: Jason you are planning to build as you specified on your plans?

J. Adams: Yes.

Chr. Davis: The same location?

J. Adams: Yes.

D. Clevenger: A cement floor?

J. Adams: I was going to have it on treated posts.

D. Clevenger: Just a pole building?

J. Adams: Yes pretty much.

Chr. Davis: Any other questions or comments from the board? Is there anybody in the audience that would like to speak for or against this petition? Hearing none, I would entertain a motion to take action.

J. Trautman: So moved.

L. Deguise: Second.

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

C. Addington: So moved.

D. Clevenger: Second.

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

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

C. Flatter: Okay Jason you have been approved. You just need to come in and get permits before you start.

J. Adams: Okay, thank you.

Chr. Davis: Thank you.

BZA 2009-5-CU (Randolph Eastern School Corp. Union City)

Chr. Davis: Our next item on the agenda is Randolph Eastern School Corporation. They are asking for a Conditional Use for a meteorological tower. Hi Cathy.

C. Stephen: Hi. I am Cathy Stephen, Superintendent of the school of Randolph Eastern, 907 N. Plum Street, Union City, Indiana.

T. Kuykendall: I am Tony Kuykendall with Performance Services. Our office is at 8777 Purdue Rd., Indianapolis, Indiana.

Chr. Davis: You did receive Article V, Conduct of Hearing?

C. Stephen: Yes.

Chr. Davis: Jamie did we get everything back the same?

J. Stump: Yes and it was published in a timely manner.

Chr. Davis: Okay you can explain what you are wanting to do.

C. Stephen: Okay we are back again. As you know we are working with Performance Services and actually the City of Union City to do, and they are next, so I don't know if you want to handle them together or if we have to do them separately, but to do two wind turbines. We originally received your approval to do one on our school property and we appreciated that and thought that was the way we were going to go until we started negotiating with our power company and actually getting the specifications from the turbine manufacture and at that point we changed the project a little bit. We no longer are going to be able to do a direct connect to the school but instead we will be putting the turbine up and selling the wind generated power back to AEP. That is the agreement that we had to work out with them, since this is the first in the state, this has been a little complicated and so the property that we are asking for tonight is another location. I will be real honest with you, we may be back again because we are trying to find various sites that this would work. We've got the financial model in place and we've got the plans in place and we are ready to go once we get all the contracts negotiated with the power company and the other people involved. So Tony do we need to say anything else?

T. Kuykendall: You said it pretty well. I think the only thing I would probably add is you know, one of the primary reasons that we are looking at moving this is in addition to having the

setbacks we had earlier, the setbacks now are even further away from any property owners or homeowners or businesses, so it is even further going to be kind of away from those but at the same time it is still going to be a very visible symbol for the school corporation to tie into their curriculum and the students and community members will be able to see this at the same time.

Chr. Davis: I can't wait til you get it up and running.

C. Stephen: Neither can I.

D. Clevenger: Is it going to be the same size as it was before?

T. Kuykendall: Yes. We were here discussing other school corporations not too long ago. Compared to the first time we were here, it is going to be about 30 feet taller.

C. Flatter: So that makes it a total of what?

T. Kuykendall: Three hundred and thirty feet, from the base of the wind turbine to the tip of the blade straight up in the air. It is a one megawatt system.

L. Deguise: So it is the same one you were here for for Randolph Southern?

T. Kuykendall: Yes, exact same one. There was nothing different from that.

C. Addington: What is the useful life of a generator like that?

T. Kuykendall: Twenty-five years.

C. Addington: Twenty-five years?

T. Kuykendall: In which point in time they could either take the tower back down, reclaim the land or they could actually recondition all the major components and go again for another 20 or 25 years.

C. Stephen: That will be another superintendents problem, I can tell you.

B. Oliver: Do the math?

C. Stephen: Yes, do the math.

T. Kuykendall: I will probably still be here.

C. Stephen: Tony will probably be back.

Chr. Davis: Any comments or questions by the board? Anyone in the audience like to speak for or against? Hearing none, I would entertain a motion to take action on this.

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. Deguise: So moved.

C. Addington: Second.

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

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

C. Flatter: You are approved.

Chr. Davis: Good luck.

C. Stephen: Thank you.

T. Kuykendall: Thank you.

BZA 2009-6-CU (City of Union City, Union City)

Chr. Davis: Our next petition will be City of Union City. A conditional use for a meteorological tower. Please state your name.

M. Poling: Monte Poling, City Manager for the City of Union City. Office is at 105 N. Columbia Street.

B. Conklin: Bryan Conklin, Mayor of Union City. Same address.

T. Kuykendall: Tony Kuykendall, Performance Services. Office is at 8777 Purdue Road, Indianapolis, Indiana 46268.

Chr. Davis: Thank you. Did you receive Article V, Conduct of Hearing?

M. Poling: Yes.

Chr. Davis: Jamie did you get everything back?

J. Stump: Yes.

Chr. Davis: Please present your case.

M. Poling: We've of course been speaking with Randolph Eastern Schools for some time about their project and possible locations and using maybe some around that the city owned. Through those discussions and talking with Performance Services, we saw the financial model would work out to benefit the city, particularly reflects on the Waste Water Treatment Plant. We use a significant amount of electrical energy per month so we saw this as a way to offset those utility costs and help keep rates down for our citizens.

M. Poling: At that time we worked with Performance Services and developed the financial model for that. We do have that property out there that is adjacent to our treatment plant and it appears to be a good site for that but it is also financially beneficial for the school as well as we are able to purchase two turbines at the same time, some cost savings there, as well as locating the construction equipment. They have some cost savings with that also. It does kind of tie in with Union City folks on alternative energy also so we really look to try to have this help us put forth that kind of selling point in our economic development strategy.

C. Flatter: Same size turbine?

T. Kuykendall: Yes, exact same system, literally.

C. Flatter: If the school corporation would have to change sites would it change the city's plans?

B. Conklin: We've been in conversation with Sea Corp. who has, did the reclaiming of the little stream through our park and they have land that they would give us and we have discussed that with them and we would move to that other location and allow the City to take our location. They want something visible to the school system, which behind our Waste Water Treatment Plant, would be a great line of site there.

B. Davis: You are making this pretty easy, board any questions or comments?

D. Clevenger: I have a question. Why don't you put one up bigger? If it is good then why don't you put one up bigger to get more money?

T. Kuykendall: I get asked that a lot. It is really dependent upon the wind resource, is how, we will size it with as large of a system that is most efficient with the wind and throughout Randolph County there are several areas that it will fluctuate and there are even some better areas than what we are sighting for the school and for the city but for this community wind project the one megawatt system, the models that we have looked through and kind of investigated are the most efficient and the best value for the actual price of the wind turbine itself. We actually purchase data from AWS Treewin. They are a global company that does this. If we looked at a 1.5 or 2.0 system, I mean, there is a significant cost increase but also the efficiency of some of those you just need a higher wind speed to really be able to get the power out of that to offset the additional cost.

D. Clevenger: Do you have to put up a higher tower?

T. Kuykendall: Most cranes can't go much higher than we are going right now. The towers themselves, or just the tower is about 230 feet tall and most of the large cranes are, that is kind of towards the top of their scale so cost wise versus out put, this makes the most sense.

C. Flatter: I am curious, cost wise, I know I did read in here that it is at a savings of \$200,000.00 with the two going together. What is the cost for the City and the School Corporation for each of these?

T. Kuykendall: It is about \$1.85 million and probably one of the best advantages of having the schools that we are looking at doing this at the same time with the city is the cost savings because that would be, you could literally add a couple hundred thousand to the installation cost if they had separate time lines, so it is a real advantage for all the parties.

B. Oliver: Is this \$1.85 million for each?

T. Kuykendall: Yes.

J. Trautman: When you were here before with Randolph Southern, you gave this same proposal to do theirs and Union City at the same time for the cost savings of the equipment and so forth, is this going to affect Randolph Southern's? Of course I understand they are going to have to move theirs anyway so they are going to come back any way.

T. Kuykendall: You will probably see me next month. Actually the plan right now and this is all depending upon how things come together with everyone's contracts but yes they all share the same time line to benefit from the installation side of things.

L. Deguise: Take that same crane company here at the same time and so forth....

T. Kuykendall: Yes just from one job site to the other. That is probably where the biggest savings are to be quite honest.

L. Deguise: I am in construction and I know that a crane is not cheap.

T. Kuykendall: I don't know but yes that is a lot of money.

B. Oliver: Is the City affected the same way as the school was, as far as the sale of the electricity? If you can go into that, maybe that is confidential. I don't know.

T. Kuykendall: It is the same structure for all parties.

B. Oliver: You have to sell to the utility?

T. Kuykendall: Correct.

C. Addington: I was going to ask Cathy why you guys changed that... why was that?

T. Kuykendall: Why we changed from powering the school? Really it is what they preferred. When you power a facility or a building there is going to be times when you are going to have excess energy so for a school corporation on weekends and in the summer and the evenings and there is not a favorable buy back rate for that excess energy and even if you size it appropriately for the building, that is a pretty significant piece that you are going to lose a lot of your value on if you don't have a good buy back rate because you can't store it anywhere. The utility company did work with us to come up with another solution, but at the same time, this one is beneficial to them but it also is beneficial to the school and to the city. But that is why we had to make the change from powering facility to selling the renewable energy.

C. Stephen: If I can say something, I think it is important to understand...

Chr. Davis: Cathy you might need to come up.

C. Stephen: I think it is important to understand that this is the first in Indiana that is doing this. Now there are wind farms in Indiana but we are the first that has tried to come with this and when we met with AEP, I don't want to leave anybody with the impression that they have not been cooperative because they have been. However, whatever they do with us, they are setting precedence so they have to be real careful. We have spent a lot of time with lawyers talking things through, and what ifs? They are excited about this too and they have been cooperative. It's not like they've said, "No you can't, we don't want to put it on the school and we are not going to cooperate".

C. Stephen: They have done that but they are trying to make a good situation, I think for all of us and something that might be able to be replicated some place else without hurting them and with it still being beneficial to schools and cities. We are kind of blazing the trail here.

L. Deguise: Especially they way this deal is working more or less, the city and the school are just acting as a producer of energy.

C. Stephen: Exactly.

L. Deguise: Your savings is the fact that you are actually making money off of something you are doing. You are not actually making your power you are just making power.

C. Stephen: Right. I mean it would be nice for us to be able to say as a school, or kids to go out and say, "We're making our own power". That was our idea at first, however, with that comes some liability and responsibility with that direct connect into my building and who's fault is it if something goes wrong and things like that? Where this, our children can actually understand what happens on a wind farm and they are producing energy and how then you make money from that because they will get to see the financial model and how it is sold and how it is marketed and what happens to renewable energy credit. I think it will be a good learning experience, not only with alternative energy but with the whole concept of marketing and sales and utilities and things like that.

Chr. Davis: Any more questions or comments from the board? Any comments from the audience. Hearing none, I would entertain a motion to take action.

D. Clevenger: So moved.

L. Deguise: Second.

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

L. Deguise: So moved.

J. Trautman: Second.

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

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

C. Flatter: You have been approved.

B. Conklin: Thank you.

T. Kuykendall: Thank you.

M. Poling: Thank you very much.

BZA 2009-7-V (Randolph County Hospitality, LLC, Winchester)

Chr. Davis: The next item on the agenda is Randolph County Hospitality, LLC., asking for a variance on the right-of-way setback requirement for a sign. Please state your name and address for the record.

R. Culy: I am Ron Culy. My personal address is 1424 E. Base Road in Winchester. I am representing Randolph Inn and Randolph Hospitality LLC.

Chr. Davis: Ron you did receive an Article V, Conduct of Hearing didn't you?

R. Culy: Yes.

Chr. Davis: Jamie did we get it published and received in a timely manner and proof of notice?

J. Stump: Yes we did.

Chr. Davis: Thank you. Please state your case.

R. Culy: Our case is really very simple. We would like to place a sign, I think the actual setback calls for a 15 foot setback from the right-of-way but we would like to move this spacing back to 7 foot from the right-of-way to install a sign. That sign will represent not only the Inn & Suites but the new Randolph Grille that will be opening next month.

C. Addington: I believe we approved a sign for that one other time. I don't know what that was about Cathy, then.

C. Flatter: We approved a variance for the Inn itself.

Chr. Davis: The motel.

C. Flatter: On the 27 right-of-way.

C. Addington: But I thought there was a sign.....

C. Flatter: It was the height. This is on Washington Street. It is a brick sign.

R. Culy: There is a somewhat colored photo of what it is going to be. It will basically be, if you are looking for something similar, it will be very similar to the Mutual sign that will actually be on the other side of the drive.

Chr. Davis: Again pretty easy. Do the board members have any questions or comments? Hearing none, is there anyone in the audience that would like to speak for or against? I take that as a no. Okay, I would entertain a motion to take action.

L. Deguise: So moved.

J. Trautman: Second.

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

C. Addington:: So moved.

L. Deguise: Second.

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

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

C. Flatter: Okay Ron you just need to come in and get the permits.

R. Culy: Thanks for your time and consideration. I appreciate it.

BZA 2009-3-SP (Brent Haworth, Winchester)

Chr. Davis: Our last petition tonight will be Brent Haworth, a special exception to place a mobile home.

B. Haworth: My name is Brent Haworth and my personal address is 3451 Bachmeyer Road in Richmond, Indiana. I am the manager of the Haworth Three LLC and the owners are myself and I have two sisters.

Chr. Davis: Mr. Haworth did you receive the Article V, Conduct of Hearing?

B. Haworth: Yes I did.

Chr. Davis: Jamie did it get published and everything back in a timely manner?

J. Stump: Yes.

Chr. Davis: Okay, please present your case.

B. Haworth: This is a property located at 931 E. Short Street and we had a house there that we recently tore down. There is also a four car garage on the property, which is still there and it is in good shape. It is about 15 to 20 years old and then behind it is approximately 18 acres of farm ground. What I am asking for, I understand it is a special exception use if we were to rent the land to put a mobile home there. What we are looking at is just to look at our options and see what they are as far as a mobile home or possibly a double wide, before we put any more money into preparing it for a mobile home site. Now the site where the house was, has been torn down

and they company that tore it down has yet to bring in some fill dirt and then we will seed over that. Right now, it would be a vacant lot and we are looking at what our options are to put a mobile home there.

C. Addington: How new of a mobile home would it be?

B. Haworth: Pardon me.

C. Addington: What would the year of manufacturing be?

B. Haworth: Well we haven't done any advertising. We are just trying to find out what our options are and what we can do as far as what is allowed zoning wise before we advertise and actually put any more money into preparing the site for a mobile home site. We have done research on what it takes to get the utilities hooked back up and we've done research on what it takes to actually prepare the site for a mobile home but we have not prepared it for a mobile home at this time.

C. Flatter: So my understanding Mr. Haworth is that you will not own the mobile home.

B. Haworth: We will not own the mobile home. We will just simply rent the land. What we are looking to do is we are running the farm right now and would like some additional income so it can support itself as far as the taxes and insurance.

C. Flatter: You do realize though as property owner you are the one responsible to make sure the permits are obtained and that it has the square footage requirements for a dwelling, even if you are renting it out to somebody else, you as property owner are responsible.

B. Haworth: It is my understanding that if we put a double wide or a modular home there as long as we meet the current zoning requirements, which I think is 950 square feet.....

C. Flatter: And it has to be at least 23 feet wide.

B. Haworth: And of course the setbacks, that does not require a special exception.

C. Flatter: Right.

B. Haworth: But the special exception

C. Flatter: This is for, if it is a single wide, anything under 23 feet wide.

B. Haworth: Okay, yes that is my understanding.

L. Deguise: To clarify, he said modular or mobile. Modular and mobile are different by code aren't they?

C. Flatter: The reason he went ahead and filed for the hearing is in case he did have somebody that wanted to rent the property that had anything that was under 23 feet wide. It requires the special exception. If it is over 23 feet wide, then it is classified as an allowable use in the residential zone. It has to have a permanent perimeter foundation around it if it is over 23 feet wide and under that you can have just the skirting, so that is basically the difference.

L. Deguise: But a modular would be more like a house than a mobile?

C. Flatter: It has to have permanent perimeter foundation.

B. Haworth: It would be more of a permanent building there as opposed to a smaller single wide.

C. Flatter: Once somebody goes to the expense of putting the foundation around it, it is not as mobile.

B. Haworth: Another thing, that is putting more expense to preparing it for a wider rather than a single wide.

Chr. Davis: You are looking just to rent the space, you are not looking to purchase a unit?

B. Haworth: We would just rent the land as a lot or space for the mobile home. We would not own that. That would be owned by whoever might rent the space. Like I said, we also have a 4 car garage there and we might rent them a bay in the garage depending on what that person might want.

Chr. Davis: Board members any comments or questions?

D. Clevenger: How much control would you have over that if you rented it to someone who put a mobile home on that?

B. Haworth: Well, Bob Cook is the attorney we are working with so it will be a lease or a rental agreement prepared through Bob and we would certainly have some restrictions on there as far as what type of mobile home it could be and what they could use the property for. We would probably do some additional landscaping.

D. Clevenger: You would have restrictions on it then?

B. Haworth: There will be restrictions on it, yes. The lease would be prepared by Bob Cook. He does a pretty thorough job of writing leases and rental agreements.

C. Flatter: Do you have anything in your own mind right now, as far as like age of a mobile home or putting it into your lease agreement or anything like that?

B. Haworth: We really, I really haven't thought about putting that type of description. We may do so because I mean, we don't want an older mobile home in there, we want something that is newer and modern and certainly going to look nice.

L. Deguise: But you don't necessarily have control over that.

B. Haworth: If we put it in our lease we would, and of course myself and my two sisters would have to approve who ever might want to bring a mobile home in there and we would want to see what that mobile home is going to look like. The lease would also have, it would probably be a month to month type of rental so if the tenant or if we would decide we didn't want to continue the lease we wouldn't be locked in for a long lease or period of time.

L. Deguise: Question for you Cathy. What if it were Haworth Three LLC, would you sell the property after we approve this? Whoever purchases that property would then therefore have the right to continue what we approved?

C. Flatter: Yes.

L. Deguise: So if you were to sell this property, you and your sisters were to sell this property next year, it could end up being a very ancient old mobile home on this property.

B. Haworth: I will say that when we set up the Haworth Three LLC, we set it up such that if one of the three of us no longer have or want to have an interest in it, it does have to be sold back to the other two members or it would pass down through that person's descendants.

L. Deguise: But you could sell the property in theory?

B. Haworth: We could sell it but it would have to be sold back to one of the other two members in the LLC. If it were sold to some organization or outside of the three of us, it would take the approval of the other two members of the LLC or if it becomes more than three than it would be more than 50%.

L. Deguise: Right, I understand how your LLC is set up, Bob set up my LLC.

B. Haworth: So our intent is not to sell the property off. I mean, the intent is not to do that. It is an old family property and we intend to keep it in the family. Is our intention.

Chr. Davis: Any further questions or comments from the board? Okay. Anyone in the audience that would like to come up and speak? Hi Beth. You can pull a chair up if you like. Please state your name and address for the record.

B. Hiatt: Beth Hiatt, 927 E. Short St., Winchester. This is my neighbor on the other side.

H. Ralston: Harold Ralston, 935 E. Short Street.

Chr. Davis: Please go ahead Beth.

B. Hiatt: I believe the best predictor of future behavior is past behavior. I believe that a man can be judged more by what he does than what he says he will do and this is how I have judged this particular situation and come to my decision. To the best of my knowledge, and this is my experience, has been a respect to the property in question. The house that was on the property was not maintained. The roof developed a leak and the remedy for that was to cover it with a blue tarp and I looked at that for several months.

B. Hiatt: Consequently the leak got worse and it caused the ceiling to collapse and the tenants that were there, they vacated the premises. After the tenants left Mr. Haworth paid me a visit and he talked about his plans to tear down the house and he was going to do it within a certain time frame and possibly would like to put a trailer there, as he stated, and at that time I said that I would be ok with it and he said that he planned for it to be something nice and very well maintained. Shortly after that people started stripping the house of the siding, the windows, the doors, kitchen cabinets and then the house just sat there for months in this condition unsecured. The tear down of the house was not finished within the time frame that I was given and because of what I have seen demonstrated, I do not foresee this to be a benefit or an asset to our neighborhood. I have reconsidered and I am not in favor of Mr. Haworth's request.

Chr. Davis: Does the board have comments on that? Questions? Mr. Haworth would you like to say.....

B. Haworth: Yes. Myself and my two sisters inherited this property from my father. He passed away February 15, 2006 at the age of 94. I started helping probably a year or so before he passed away with his personal finances and part of it was the Winchester property. There had been in the past, in my opinion, some undesirable tenants in that house and for whatever reason, whether it was his age or his ability to keep a close eye on the house, the house did deteriorate. It deteriorated pretty significantly and everything that has been stated about the roof and so forth is true. The tenants that were in there when we inherited the house, they indicated the desire to stay there. They wanted to live there but at that time we started investigating what it would take to bring the house back up to a standard that we want people to live in and part of it was the roof. We had the roof scheduled to be repaired. It was in August of 2008 and as I was making arrangements to do that the tenants decided they were going to move. So then we reconsidered what it would take to bring the house back up into a standard, you know that would be satisfied to renting it to someone else, there was significant roof damage, there was a leak there, there was, the bathroom was not in good shape, we would have had to spend a great deal of money there plus just the general condition of the inside of the house had deteriorated significantly so we made the decision that they money that it would take to bring the house back up to standards we didn't we to expend and it would be better off to tear the house down and look for another use for it. This all happened in, we made the decision to tear the house down I think in September so we started looking for contractors to tear the house down and we did investigate about 3 different contractors. Some of this I am going on memory so the dates might not be exact. The contractor that did tear it down, I believe we had him scheduled to come in there in January and due to his work schedule they weren't able to get in there until, it was late February. I had made several follow-up phone calls to them saying that we needed to get this done. There were other reasons too. We wanted to get it down before March 1st for reassessment. So we did make a sincere effort to get it torn down as quickly as possible. The blue tarp was put on the roof in an effort to try to make it a little more habitable for the tenants that were living there. We put the blue tarp on there with the intention of slowing the leak down until we could get the roof fixed itself.

B. Haworth: Then as far as stripping the house, there were some components that were in there that could be recycled or reused. There were windows taken, there was some siding taken, there was some cabinets and counters and some bathroom fixtures. We felt like there was an opportunity for somebody to use that.

Chr. Davis: How long of a period of time was the stripping?

B. Haworth: Probably about 2 months, I would say. It may have been a little....

B. Hiatt: It sat all winter like that.

B. Haworth: Anyway we gave some people an opportunity to come in there and take some items we thought they could use. So that is the reason for, I guess maybe a little longer period of time.

Chr. Davis: Okay, just to clarify something that I was thinking, right now the LLC has three members and you said before your father had owned it completely or was it still in that.....

B. Haworth: He had owned it completely.

Chr. Davis: Okay and once he had passed his hands to you then that is when you formed the LLC?

B. Haworth: Right we actually took ownership of it, I think it was January of 2008, is when we actually took ownership and could actually do something with it as far as the LLC.

Chr. Davis: But all these concerns that Beth has, you still could have addressed. You had the right to address that, is that correct? The LLC.....

C. Flatter: January 31, 2008 is when the deed was recorded into Haworth Three LLC.

Chr. Davis: Beth your concerns were after that date?

B. Hiatt: Yes.

Chr. Davis: Were they before that date?

B. Hiatt: No, the blue tarp was not on the roof before that date.

B. Haworth: It seems like it took a long time and it did take a long time, it took longer than what I would have liked to arranged to have the person repair the roof and also took longer than what I would have like to tear it down but it seems like these things should go quicker but once you start working with contractors and doing your investigation and getting the cost together and it just took longer than what I anticipated. We no longer have the desire and we don't want to build another house there. We don't want to be the landlord of a building. That is one reason we want to make it a lot for a mobile home there. I believe there is another single-wide mobile home, it is on the other side.

B. Hiatt: Yes but it is owner occupied. The people that have that, they take good care of it. We don't have any problems with them, nor any of our other neighbors. Our neighborhood down there is relatively nice area there on Short Street. Most of the people own their homes and live in them and keep them up.

H. Ralston: There are two mobile homes on down the street that is in bad shape and that is what I am afraid of. I agree with everything that she is saying.

B. Hiatt: I wouldn't mind it so much if he was going to live in it himself and he was going to be there all the time but I just feel like if it is a rental and particularly if the tenants own the trailer that it just won't be kept up.

B. Haworth: Then again, you know in the lease that we'd have with whomever it might be, there would be some instructions of how they would maintain their property. Not the land as far as property, but the mobile home site.

Chr. Davis: I would just present this to the members of the board, that if you have your book would you refer to Article XII, Special Exceptions, item 12.02 Special Exception Use Findings of Fact, there is about 6 items that we may want to consider. While the board is looking at that, is there anyone else that

C. Addington: Can you read that to us Bill? If you can. Can you do that?

Chr. Davis: Lee do you have your book?

L. Deguise: Yes I have it.

Chr. Davis: Jim do you have it?

J. Trautman: No but I know the six things that you are talking about.

Chr. Davis: While we are looking at this, is there anyone else in the audience that would like to come up and speak?

E. Denton: I am Edward Denton and I live at 927 E. Short Street. Mr. Haworth looks at it as his property and he should have a right to do what he wants to but he is not going to be the one living there. You folks need to take a drive down Short Street and look at the rentals. It is a trashy looking mess, all over. Every rental.

L. Deguise: I did today.

E. Denton: I mean, it is a mess. I am not questioning him. I would love for him to live there but he is in Richmond, Indiana. He is not going to be the one living here. Who knows what is going to come. He is talking about having a lease drawn up. That doesn't mean anything. I have seen people walk off and leave those things, trash them up. The ones down on the east end of town were left. Somebody bought them and rented them right back out again and look at those things. It's his land and a man ought to have a right to do with it what he wants to. If he would want to live there and put a trailer or a pup tent in, that would be okay but when you have something like this, you know, he is talking about just renting it to somebody and who knows. There is a lot of rentals down Short Street that needs to be condemned. It is a mess. It could be a nicer neighborhood. They have worked hard and I have worked hard on Beth's place. He has worked hard on his to keep it up and some of the homes and then you will have a rental. We have one across the street from Beth's, on the south side, with a tarp on the roof, another one. The one right down there two doors down sitting there with a tarp on the roof and it has been there for a year and a half.

H. Ralston: It used to be the Owen's place.

E. Denton: These rentals, somewhere, somebody needs, I don't know what, they ought to be condemned about half of them down through there.

B. Hiatt: I know Mr. Haworth probably has every good intention.....

E. Denton: I do to. I like Mr. Haworth.

B. Hiatt: But it's when you give your power away like that, you can't control what somebody is going to do.

B. Hiatt: Somebody could, I have seen people even take a new, nice trailer and they just don't respect what they have and you know they could tear something like that up and walk off and leave you holding the bag and you are going to have to pay to move it out of there.

B. Haworth: Can I say one other thing, too? We kind of, me and my two sisters kind of inherited a bad situation there with that current renter, but we are approaching this as the house, not only did it need a lot of maintenance work, from a financial standpoint we didn't feel like it was worth an investment but the house had also deteriorated significantly and we felt that by tearing the house down when we look at the property and its entirety, that would be an improvement and right now if we don't get the special exception or rent the land for a more permanent home, it would be filled in and be just a vacant lot. We are looking and the garage is, like I said we kept the garage because it is still a nice garage. It has not deteriorated like the house had so we are kind of approaching this and looking at it from, we really wanted to not only improve the property from the appearance and standpoint, but we also are looking at a way for some additional income to support that property and the land behind it. The home was an eyesore and the neighbors, I don't want to speak ill of the people who lived there, but we did inherit an undesirable situation and we are trying to make it better. I do live in Richmond, you are right. It's about 30 minutes away. I think I have been up here at least once a month or maybe twice a month, so it's not the fact that I live 100 miles away and not an absentee landlord type situation. We are not going to farm it out to a management company. We'd be personally involved with it. I lived in a mobile home myself, when I first got married. I know they....

C. Addington: Does your family live close by? The other members of the LLC?

B. Haworth: One sister lives in Muncie and the other sister lives in Marysville, Ohio.

C. Addington: Thank you.

B. Haworth: The sister in Muncie has been more involved than the one in Marysville because of the distance. On a month to month lease, if its not satisfactory and doesn't meet our standards, then we could terminate our lease.

D. Clevenger: Would you be more concerned if he owned the building and the house? Would you be more in favor of that?

B. Hiatt: Not really with it being a rental. I mean, if he lived there and it was owner/occupied because most of the houses in this little area where we are, are owner/occupied.

B. Haworth: We've had renters before and they were nice people but they tore the house up. They were good renters too.

B. Hiatt: I know you might not like what we are saying here but it might be a blessing in disguise. It might save you a whole bunch of trouble.

B. Haworth: Oh that is perfectly fine. Like I said, financially we have to be able to pay for the place to and that is one reason....

B. Hiatt: But don't you make money off the crops?

B. Haworth: Not enough to pay the taxes and insurance.

C. Addington: How many acres do you have?

B. Haworth: Eighteen acres behind that property. We are looking at doing something maybe with that strip of land. You had indicated we might want to look at that for grazing your horses in exchange for maybe mowing the grass or something like that.

D. Clevenger: I hate to discourage you but I think rentals are a bad thing.

B. Hiatt: Well Mr. Ralston he had talked about maybe trying to rent that lot off of you too but he hadn't been able to get hold of you.

H. Ralston: I've tried to call you a couple times and I couldn't get through.

B. Haworth: I will give you my phone number before we leave.

H. Ralston: We've both talked about keeping it mowed and maybe renting it.

B. Haworth: Yes. I understand I don't live there but I also want to respect the neighbors that do live there in the area. This was a property which my dad grew up on and my grandfather had lived there. The Haworth family had donated the property for the White River Friends Church and that little cemetery so we do have a family connection with the property and the land there. It's not just something that we have for an investment. It is part of our heritage.

Chr. Davis: Is there anybody else in the audience that would like to speak? Okay. Any other questions or comments? I have one for the board here. Whatever we decide to do, we want to focus as indicated before, Article XII, Special Exceptions – 12.02 has the six items. We need to feel that the petitioner has met these 6 conditions. If not, if it isn't, we have the right to deny the request but at the same time we also can go to 12.03 and present a condition to the special exception. This case, I would entertain those to the board, my thought is, I understand both parties concerns. My concern is under 12.02, number 2, "the special exception use will not be injurious to or diminish the use, value and enjoyment of other property in the immediate vicinity for the purposes already permitted." I question if the petitioner has met this requirement based on what the value is going to be to those surrounding neighbors. With that I would condition that special exception if the board is willing that we condition it to have the unit in place no older than 10 years old. Just to throw a number out there.

L. Deguise: But we are still taking a chance if they don't sell the property.

Chr. Davis: Exactly.

B. Haworth: May I say something?

Chr. Davis: Sure.

B. Haworth: If one of the three members decides they don't want to be part of the LLC, they can sell it, but it still remains in the Haworth LLC, which is myself and the two sisters. It wouldn't be sold to an outside, just interested party.

L. Deguise: Let me put it into context style, some major developer comes to town and says, "Hey, Haworth LLC, I will give you four hundred thousand dollars for the land...."

B. Haworth: We could do that.

L. Deguise: Exactly.

B. Haworth: That is true.

L. Deguise: In which case, what we already conditioned and approved, which would have nothing to do with them any more.

L. Deguise: That is one of the dangers I see in approving this. Just for the record I am a representative for Winchester and I did speak to the city today and they are not in favor.

B. Haworth: Okay.

L. Deguise: Mostly because of the rented mobile.

B. Haworth: They object to it as a mobile home?

L. Deguise: Yes.

Chr. Davis: Board members, comments, questions or discussion among us? I would entertain a motion to take action.

D. Clevenger: So moved.

C. Addington: Second.

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

L. Deguise: So moved.

D. Clevenger: Second.

Chr. Davis: All in favor. "Ayes". Opposed (none). Jamie we are ready.

A roll call vote was taken: Lee Deguise, no; Larry Amspaugh, absent; Christy Starbuck, absent; James Trautman, no; Bill Davis, no; Charles Addington, no; Dale Clevenger, no.

C. Flatter: Okay Mr. Haworth you can rent the property out to somebody that has a home that is over 23 feet wide. No single wides.

B. Haworth: And that is for the current zoning right?

C. Flatter: That is for the current zoning.

B. Haworth: So I have to meet the current zoning requirements if I want to put some other building on there?

C. Flatter: Exactly and all the setback requirements.

B. Oliver: You also have the right to seek a writ of certiorari. Mr. Cook will tell you what that is if you want to appeal the decision.

B. Haworth: What is it?

B. Oliver: It is called a writ of certiorari, cert. If you talk to Bob Cook he'll know what it is.

B. Haworth: I know.

C. Flatter: You could present to him that you could possibly want to appeal the decision of the BZA and Bob will know what you are talking about.

B. Haworth: I don't think we will appeal it. Thank you.

Chr. Davis: Thank you.

The meeting adjourned at 8:05 PM.

BZA Minutes 4/20/09

THE NEXT REGULARLY SCHEDULED MEETING IS MAY 18, 2009 AT 7 PM IN THE COMMISSIONERS CONFERENCE ROOM OF THE RANDOLPH CENTER FOR FAMILY OPPORTUNITY, WINCHESTER, INDIANA.

Bill Davis, Chairman

Christy Starbuck, Vice Chairman

Jamie Stump, Recording Secretary

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