

BZA MINUTES

OCTOBER 22, 2024

Members present: Jason Allen, Bill Davis, Jim Hufford, Jon Peacock, Drew Cleveland

Members absent: Jason Hawley and Don Calhoun

Legal Representation: Jason Welch

Staff present: Debra Johnting, Area Planning Director/Recording Secretary and Kristi Halloran, Area Planning Administrative Assistant

Others present: Ed Thornburg, Cary Cox, Greg Saulmon, Lowell Shaffer, Kevin Lawrence

Vice Chairman Davis: Good Evening. It is 7:00 o'clock on October 22, 2024. I would like to call this meeting to order. First thing on the agenda is to approval of minutes from last meeting September 17<sup>th</sup>, 2024.

D. Cleveland: I make a motion to accept as presented.

J. Hufford: Second.

Vice Chairman Davis: All in favor say aye.

All: Aye.

Vice Chairman Davis: Approved. First on the agenda is BZA2024-28-V, Greg Saulmon. Greg you can come on up.

J. Welch: Just to let the board know I have a conflict of interest, so I can't sit on this one. I'm going to sit out here for this particular issue.

Vice Chairman Davis: Greg, just for the record, would you state your name and address please?

G. Saulmon: Yes, my name is Greg Saulmon. And I actually have two properties, one rented and one was destroyed by the tornado. That property is 548 S Western Avenue, Winchester, IN 47394.

Vice Chairman Davis: You can grab a seat or if you want to stand up.

G. Saulmon: The second on where I live now, the displaced location is 214 South Main Street Apartment A, Winchester, Indiana 47394.

Vice Chairman Davis: Thank you. I just want to back up here. Petitioners will have 15 minutes to present your petition. During this time, there will be no interruptions or questions after the presentation, the board may ask questions. Anyone wanting to speak for or against will have three minutes each. And then the petitioner will have additional five minutes to respond to comments.

Greg, have you received Article V Conduct of Hearing?

G. Saulmon: Yes, I have.

Vice Chairman Davis: And they've been sent out. Please share with the group what you'd like to do.

G. Saulmon: What I'm interested in is a simple extension of the height of the fence that I have that you will go around my swimming pool from the eight-foot level to, excuse me, from the six-foot level to the eight-foot level for approximately 20, maybe 25 feet on the south side of my property. And the reason being because of security and privacy. And the remaining part of the fence will be six foot in height which would be the height that you guys or that the city requires. The transition from the eight-foot level to the six-foot level will be a tapered transition. Gabbard fencing, who does a wonderful job, will help to make this fence look so much better than the chain link fence that I have now. And the way I try to develop a little bit of privacy now is to put the blue tarp on the chain link fence, which looks pathetic but yet it does do its purpose. So that's why I'm also interested in fencing that area and not only that, but to ensure that I meet the guidelines of having that pool secured and safe because that's my utmost important situation is the pool. It's a 17,000 gallon pool. It's a kidney shape pool. And I do though, want to mention to you. That I did make a very serious mistake that I need to apologize. It was out of ignorance on myself. I do not mean to do this on purpose. But when I was going through the paperwork for this hearing, I received the paperwork also for the building or the placement of the shed. And with that I filled out that paperwork and I brought it back in and I thought, OK, now I can go ahead and get this shed. Well, that's what I did. I built the foundation or have the foundation built and then the shed received—actually, it was three days ago. And I put it at a location that I knew would be a location that was very comparable, where the previous shed was and be within the boundaries of the guidelines for the city. Because I knew that one edge would be running along the side on the south side, running along the side of the fence, and that side of the shed is lined up with the side of the fence on the south side. And that's where I plan to have that eight-foot section for about 20 feet, maybe 25. Now, I'm sorry. I'm sorry. The west side. The south side is where Crestwood is and Crestwood, to this shed has that larger distance. What is it, five, eight, ten feet? I know that I did not have that shed put any farther than the previous shed that was built on the same path, but just back a little farther. Because what I'm going to do is make that shed the corner of the fenced in area. And then run a fence off of that shed. Now on the south side of the of the shed that's going to be my front yard. And I'm going to be building, rebuilding, just to the east of that area, we're going to put a three bedroom, two bathroom house there. So you'll be seeing more of me here. But I am in the process of the dissolution and cannot get a construction loan until after that disillusion is final. I'm going through hell guys, ladies. And that's no exception for me making that mistake and I want to apologize. I would take it back, especially to Debra because Debra has helped me out through this so much. And I feel terrible that I did that.

Vice Chairman Davis: Worse things have happened.

G. Saulmon: Take a tornado, taking my home is one of them.

Vice Chairman Davis: Yeah. I'm going to pause, you're right there. Do you want to add anything on the?

D. Johnting: Well, and the declaration said specifically you can put whatever you had back even if it was on the line. And the same size in the same place and his shed is two feet smaller. And that the same way we had another neighbor come in. Hers was a couple feet larger. And that we clarified that and I said no it had to be exact. So Greg, did fill out all the paperwork. There's no fees involved because the fees were waived and so it was all kind of a blur. I think there was all paperwork for the variance and I said at that time just we'll just ask for that shed. And when we talk about the fence, it'll be fence, shed, and then fence going on that to the north and we'll do it all at once. And even I was getting confused so it's a lot.

D. Cleveland: So we're just talking about the fence tonight.

D. Johnting: The fence and we have to add the shed in since the shed is two feet smaller. Because I said when he filled out the paperwork, I said it's not exactly the same size. So we'll talk about the fence and amend his petition to include the shed as well. We'd already sent out the notices and sent you guys all the packets, so it's easier just to amend it tonight. If you want to come back next month and talk about the shed we can.

G. Saulmon: It's a beautiful shed too. It's really pretty and I'm not saying that just to influence you but it's really pretty. I actually picked it out. By the way, the previous shed was picked up by the tornado with the golf cart inside of it and put into the pool.

Vice Chairman Davis: Didn't mean to interrupt you. Do you want to add anything else?

G. Saulmon: I really don't think I have anything else, sir.

Vice Chairman Davis: Board members questions on what we're looking at or deciding?

J. Allen: The only thing I have questions like so the reason for the privacy of the eight-foot section which is going to run. I'm assuming the shed is going to move over to this corner, correct? So the privacy of the eight foot fence is going to be right here, correct?

G. Saulmon: Correct.

J. Allen: Not by the pool, which is where I would have thought you had the most privacy anyway.

G. Saulmon: Well that. Well, the reason why I want it to be a little farther south is because the properties across the street have a little higher. The height of their land is a little higher and they can. They can see into my pool area.

J. Allen: But you're not putting eight-foot fence across the front?

G. Saulmon: Well, there's the shed will block. I will have privacy with this shed and then also the house.

D. Johnting: And the house to the west, it's their garage.

J. Allen: Right.

D. Johnting: There's not really much of an issue coming from that way. Their front yard faces south. If they're going to be out, they're going to be out to the south there.

G. Saulmon: Right beside me is a garage. Is that what you just mentioned?

D. Cleveland: Your shed will be there.

G. Saulmon: Is that right on the corner?

J. Allen: That's right in the middle from there. We're looking at the picture now.

D. Johnting: Here's a picture, Greg if you want to come up and see what they're looking at. This is what we drew. There's your corner. It's in the southwest corner.

J. Allen: So is the shed going to stay here or is it coming over here? So it's going to be in that corner. So the eight foot fence is basically just blocking. It's all this section. It's not anything beyond this pool.

G. Saulmon: These are the houses over here that are higher in elevation.

J. Allen: They're across the street. Yeah, so like these ones. Cause you're right here. So these two are higher to look into there. So that's what you're trying to block, it's this corner.

G. Saulmon: That's what I'm trying.

J. Allen: OK. That makes no sense.

D. Cleveland: But still would be built like, what is it five to ten feet from the property line there.

D. Johnting: It would have been five feet. And the other one was right on the line.

J. Allen: So it's still within the same line, it's just a taller fence essentially is what it is.

D. Cleveland: That makes sense. Thank you.

G. Saulmon: I still have seventeen 4x4s that are still there and some parts of the fence from the remnants that Gabbard is going to have to deal with.

Vice Chairman Davis: Okay, thank you for the clarification. Is there anyone out in the audience that would like to speak for or against this matter? Let the record show no one said yes or no. All right, board anymore further questions before we take a vote? Entertain a motion for roll call vote.

J. Allen: Motion.

D. Cleveland: Second.

J. Allen: And this is for it being amended to include the shed, okay.

Vice Chairman Davis: All favor of a vote say aye.

All: Aye.

D. Johnting: Jim Hufford, yes. Bill Davis, yes. Jason Allen, yes. Jon Peacock, yes. Drew Cleveland, yes. Motion approved.

G. Saulmon: Thank you.

Vice Chairman Davis: Good luck!

J. Allen: Do you need to make a new one of these with the shed on it before we sign this (ballot)?

J. Welch: You can just write it on there.

Vice Chairman Davis: Ok. Next on the agenda, we have Cary Cox represented by BZA2024-29-V. Cary come forward and state your name and address for the record please.

C. Cox: Cary K. Cox, 112 West Henry Street, Farmland, IN 47340.

Vice Chairman Davis: And for the record you receive Article V Conduct of Hearing?

C. Cox: Yes.

Vice Chairman Davis: Deb, they were sent out?

D. Johnting: Yes.

Vice Chairman Davis: Please share with the group what you'd like to do.

C. Cox: I want to put a deck on the north side of the building and they tell me I need to get a variance to get closer to the property line.

Vice Chairman Davis: I think that's pretty straightforward. Board, are there any questions?

J. Allen: What is this? What is this part of?

D. Cleveland: It's an alley to the north, right?

C. Cox: It's not an alley. It looks like an alley. It's maintained like an alley. But it's not an alley. But all the properties are commercial zoned including mine.

J. Allen: Is it a building or is it a deck?

D. Johnting: It's a deck. It's considered a structure and that's what that is. It's a second story.

C. Cox: It's a second story, adding a door having nothing to do with this really, but I'll have two doors that way.

J. Allen: Oh, so it's going to be elevated. That's a big difference.

D. Johnting: And it will be about a foot to two feet away from the property line. If it were attached, the rear setback would be 20 feet. With it being detached it should only be five feet and he's asking for it to be one foot away. It will be an eight-foot deck. So, it's not attached.

D. Cleveland: So detached means that it's just.

J. Hufford: Not attached to the house.

D. Cleveland: It's right next to the house. It's just not attached to the house.

D. Johnting: Right. The builder said if it were attached it would be considered part of the building and the setback would be 20 feet.

J. Hufford: As long as it's not covered. I thought you wouldn't even have to get a permit.

D. Johnting: It could possibly cover someone else's ground so. It's considered a structure. And the property line it butts up to is someone else's property. They may drive through back there, but it's not an alley.

J. Allen: So how much space is between where the edge of the deck, where the posts are going to be?

C. Cox: There be two or three feet for the post. There will be four sonotubes post. The deck will hang over those a little bit.

J. Allen: Yeah. With that I get that, but like if say if this is the deck, the edge of the deck. There's a post right underneath it. How much room from that post to the edge of where somebody's driving? If somebody were to take that post out.

C. Cox: Oh no, no, no, it'll be three or four feet.

J. Allen: From there and then still have driving area between it.

C. Cox: The post will be, the deck is going to overhang like that over the post.

J. Allen: Yeah. From where the post is how wide is the driving window? Because you could drive underneath an 8-foot deck.

C. Cox: Well. I'm not understanding what you're asking. If somebody even wanted to drive under?

J. Allen: Yeah. If that leg is the post underneath that deck, and somebody drives underneath that thing. Could they take that post out and drop that deck underneath it? If there was a driving lane back there?

C. Cox: They'd have to veer off the lane.

J. Allen: I didn't know how wide it was back there?

C. Cox: Well, it's basically an alley. Everybody thinks its an alley.

J. Hufford: You said it was an alley. Is it an alley or an easement?

C. Cox: There's no easement. It's private property, but the city maintains it like an alley.

J. Hufford: It'd be a problem to have an easement like for electrical and stuff like that for trucks to go through there, you know, that's why I was wondering.

J. Allen: That why I was curious if something were to drive back there that didn't pay attention and took the deck leg out and next thing you know, the decks on top of the car.

C. Cox: I don't know how that would happen.

J. Allen: I'm just thinking of hypotheticals.

J. Peacock: So it's one foot from the alley.

C. Cox: Well, there's not really an alley. It's not an alley. It's maintained like an alley, but it's private property.

D. Cleveland: And everyone thinks it's an alley. Everybody drives on it.

J. Peacock: It's on the other person's property?

C. Cox: Yes.

J. Peacock: So. Will you need to use that alley to build this?

C. Cox: We've got access from the from the east, from an actual alley. I'm on very good terms with the property owner. He'd let us use it if we wanted to do.

J. Peacock: One foot is pretty close.

C. Cox: That the discussion originally was the commercial properties there wouldn't have been a set back at all, but they're wanting me to do it as a residential deck.

D. Johnting: If you had done it as commercial you would have had to go through the state.

C. Cox: Right. But then the setbacks are different.

D. Johnting: That would have been up to them. I don't know. We don't have setbacks for commercial properties.

C. Cox: I didn't read that in the Unified Code that I've read through? If it wasn't a church or a school or something.

D. Johnting: For commercial. If it's residential, we impose the residential setbacks. It's a house. If it's commercial property then it goes through the state and they decide.

J. Allen: We had a commercial setback for me. Twenty-five foot from the road.

D. Johnting: That was for the front. Not rear and not side.

J. Allen: That's so confusing.

J. Welch: Are Tinsman's the owners of the property?

C. Cox: Yes.

J. Welch: Did they receive notice of the petition?

C. Cox: Oh yeah.

J. Welch: Have you spoken to them about this?

C. Cox: John didn't say anything about it.

J. Peacock: What is their business?

C. Cox: They don't actually use the property for any business purpose right now. There's been businesses in there and other things, but right now it's vacant.

Vice Chairman Davis: OK. Any further questions by the board? Discussion? Anyone out in the audience like to speak for or against this. Let the record show no one came forward. Pending there's no questions or comments by the board, I entertain a motion for a roll call vote.

D. Cleveland: So moved.

J. Hufford: I'll second it.

Vice Chairman Davis: All in favor.

All: Aye.

D. Johnting: Bill Davis, yes. Jason Allen, yes. Jon Peacock, yes. Drew Cleveland, yes. Jim Hufford, yes. Don Calhoun and Jason Hawley are absent. Motion approved.

Vice Chairman Davis: Good luck.

C. Cox: Thank you. So, when I get the survey done—they could be done any day now—I just need to come and see you?

D. Johnting: Yes.

Vice Chairman Davis: Last but not least, Mr. Lowell Shaffer represented by BZA2024-30-V. Lowell, for the record please state your name and address.



L. Shaffer: Lowell Shaffer, 2263 North 130 West, Winchester, IN 47394.

Vice Chairman Davis: And you did receive Article V Conduct of Hearing? And please share with the group what you like to do.

L. Shaffer: Extend my garage. Whoever built the garage built it for a car. I had a 2016 F-150 and it cleared by about two inches. It did not like the 24-foot trailer with two razors on it, so I got rid of it and got a 2500 Dodge and it won't even think about going into that garage. So I kept it in a storage unit last winter, so it would be out of weather and I'd really like to get it in at my house.

Vice Chairman Davis: After how many years out there?

L. Shaffer: Well, the other ones are short enough to get in there. The Ford I had about two inches, so if it snowed very much, you shoveled tracks out so it didn't raise up and scrape the top of it.

D. Johnting: Because he's in Ag Residential, the requirement is that a garage can't be taller or larger than the residence. So, when you add this addition that will make it taller and larger.

Vice Chairman Davis: I have no questions. Board members, questions, comments. None. Anyone in the audience that would like to speak for or against this. Let the record show no one raised their hands. Entertain a motion for a roll call vote.

J. Hufford: So moved.

D. Cleveland: Second.

Vice Chairman Davis: All in favor, aye.

All: Aye.

D. Johnting: Jason Allen, yes. Jon Peacock, yes. Drew Cleveland, yes. Jim Hufford, yes. Bill Davis, yes. Don Calhoun and Jason Hawley are absent. Motion approved.

Vice Chairman Davis: Good luck.

L. Shaffer: Thank you.

V. Chairman Davis: Do we have any old business to discuss?

D. Johnting: Meeting next month. Nothing in December.

Vice Chairman Davis: OK. Motion for adjournment.

J. Allen: Motion.

D. Cleveland: I'll second

Vice Chairman Davis: All in favor.

All: Aye.

Vice Chairman Davis: Meeting adjourned.

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Chairman, Jason Hawley

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Debra Johnting, Recording Secretary

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Vice Chairman, Bill Davis