

BZA MINUTES

MARCH 21, 2023

Members present: Bill Davis, Don Calhoun, Jim Hufford, Drew Cleveland, Jon Peacock, Chairman Hawley

Members absent: Jason Allen

Legal Representation: J. Welch

Staff present: Debra Johnting, Director and Recording Secretary, Rhonda Gard, Area Planning Assistant

Others present: Gary & Jan Foulke, Rolland Abraham, Ed Thornburg, Bob McCoy

Chairman Hawley: Alright, I think we are ready, today's date is March 21, 2023. I would like to call to order this meeting of the BZA. First off, I would like to have members introduce themselves for the record, so we have their voices on the record. My name is Jason Hawley, I am the Chairman of this board, Don Calhoun, James Hufford, Bill Davis, Drew Cleveland, Jon Peacock. Alright, thank you very much. First of all, I would like to have the approval of the minutes from February 21st, 2023, has everybody had a chance to look at those and review them? I motion that we accept the minutes as presented.

B. Davis: Second.

Chairman Hawley: All those in favor, say aye, all those opposed. Motion is carried. Alright, before we get into things, I would like to remind everybody that petitioners will have 15 minutes to present their petitions. During that time there will be no interruptions or questions. After the petition the board may ask questions. After that anyone wanting to speak for or against will have three minutes each. And then the presenter will have an additional five minutes to discuss any of the questions brought up. Alright first off, looks like we have BZA 2023-7-V, Gary and Jan Foulke. Pig Tails LLC, two hog barns, looks like your requesting variance of the 40 acres for CAFO to vary down to 17 ½ acres. The zone is Ag Intensive. Would you please, first off have your received Article V Code of Conduct for the hearing?

G. Foulke: Yes.

Chairman Hawley: Would you please state your name and address for the record?

G. Foulke: Gary Foulke, 1149 West 400 South, Winchester, Indiana.

Chairman Hawley: Okay, would you kindly tell us what you're looking to do and see what we can do?

G. Foulke: We have two existing buildings. When we built the original first building, I forget what the requirement was but it was less than 40 acres, it didn't really matter because we owned all the ground around it anyway. We formed an LLC for that original building. Roughly ten years later, my nephew

came in to farm with me and built the second building and it required 40 acres at that time. So, I had them survey off and it was just simple to make it rectangle, we made it and it was 68.61 acres I believe. Now that Jan and I are doing some estate planning we've been talking to our lawyers and looking at different things and he was asking why that entity has so much tillable farm ground, because it was a hog CAFO. And just like we are going to separate our house off from the farm on the other end and probably separate our buildings off for our estate. He said, couldn't you get your hog building where it sets basically. We included the woods because it's not tillable ground and will add no value for the farm. We are not going to build another building. Our contract owner, Country View, likes only two CAFO's or two quad buildings at one site because of biosecurity. So we won't build another building, we don't have enough land for manure application for another one anyway. We aren't going to sell the place. This is our farm, we own roughly 600 acres around it, we're not going to sell the hog buildings. It's strictly to have a standalone LLC here by itself with only one income stream really. And so that LLC will be pigs only and the land will be tillable farm land only. That's basically it, and we, Deb and I roughed it out, 17, 18 acres. We will survey it and get it exact, but that's what we came up with at the moment. That's really about it.

Chairman Hawley: Well, I guess starting off, I wasn't for all the CAFO stuff so I would like to speak to some of the board members who were about all this, can I get some of your feelings on all this?

J. Hufford: As far as CAFO but right now we what we've been talking about this section line that goes through there right?

G. Foulke: right

J. Hufford: I have a question for the attorney, on property lines, we could go to the Courthouse and if we buy the house next door and we want to build a fence we can have that all incorporated into one section, can he do that same thing here?

J. Welch: No, but they can put a restrictive transfer form, is what I think Randy has intended to do was to link part of the acreage on one side and part of the acreage on the other side. So it couldn't be sold to make sure it maintained whatever acreage he's asking about. The county won't let him combine the two parcels because the section line is down the middle. So there will be a recorded restrictive transfer form. It links those two so they couldn't be sold separately.

G. Foulke: Ideally if we would've thought it out a little better it might have been better to move it to one side or the othe. If we moved it to the west, even though it doesn't show we would've been way out of the right away. There's a gas pipeline that feeds up here that runs through that field. So we wouldn't have gone west, it would've gone east. We would've got into the woods more might have lost some of our cover on the east that we want to maintain. So we just decided that's where it was going be. Like I said to us it doesn't matter. It's not like there is a petition in the middle of both. This is a section line on the map.

D. Cleveland: The lane is part of the new property?

G. Foulke: Yes, the lane will go with the buildings, yes.

J. Welch: Are you going to make the lane 40 feet so you have 40 feet of street frontage there?

G. Foulke: It's already...

D. Johnting: That's what I had marked off....

J. Welch: Ok, couldn't tell from the drawing.

D. Johnting: And the surveyor will know to put in forty feet.

G. Foulke: When we built that, I built a two lane driveway because it was so long and concrete trucks passing and then we found out it's better now because we have semis coming in and out with loaded fat hogs and empty trucks that we can pass and in all weather conditions. So that was kind of in my plan at the beginning.

J. Welch: I just couldn't tell from the picture how wide it is.

D. Johnting: That's my measurement, and the surveyor will know that has to be forty.

G. Foulke: Like I said originally it was surveyed at whatever the acreage was that went back the drive to whatever the requirement was. When we had to get the 40 acres for the second building we just expanded to the 68 acres,

J. Hufford: You're doing this for the real estate, estate planning you say?

G. Foulke: Like I said we're talking to our attorneys and they're looking at setting things aside here and there. And this just come up and they said, in their mind why don't we set it off and have it as minimal as possible for that entity basically. And I'm just, they're the experts, they're the lawyers. They know everything (laughter).

J. Hufford: Someone comes in and wants to buy one parcel and the building setting across from the other ... otherwise I don't see a problem other than selling parcels and have it set up that they can only be sold together.

D. Johnting: It will be filed on both deeds that one can't be sold without the other.

J. Hufford: Without the other, okay. that's what I was wondering

D. Johnting: It's the same as a combination, that actually the state requires that you cannot combine across parcel lines. So, this is a work around.

J. Hufford: Okay, I think that answered my question.

Chairman Hawley: Yes, because I had the same real thought was like I... this is a unique circumstance. I didn't want to set a precedent that the next person comes in wanting an exemption here, what will stop them from asking for the same thing. But obviously this is really unique circumstance, it seems it

would be really difficult to do anything other than he's asking. I mean it sounds like it's almost bullet proof to prevent anything else. That's just my take on it.

J. Peacock: Gary, my only thought was down the road, like if your nephew was to buy the barns or something like that, whoever would buy the barns, when you guys are done with them, they would have to have agreements with whoever the governing board is for CAFO's. For having the access to apply manure to the ground right? So it's really not going hurt anything?

G. Foulke: I'm not going to lie to you either, my nephew will take this over, in the near future but he is going to take over the whole farm too. I mean its going to stay in the family. Hopefully, his wife's pregnant with their second one, so maybe they will have a boy so may it'll be the third generation?

D. Johnting: I don't know how long, when did the barns come in, 20 years ago or so?

G. Foulke: We purchased the original farm in 1997, and then built the first barn in 2007.

D. Johnting: 25 years or so, I don't know of one that's closer to another one than the 40 acre spread, for biosecurity. The thought of now Country View coming in and trying to put one 100 feet away is not likely.

G. Foulke: Well there's talk now of other integrators coming in but another company doesn't want their pigs as close, because again of biosecurity and you got the African swine fever over in China. Nobody wants to have one set of pigs kill another set, so on so on... that's kind of why we put them out in the middle of nowhere.

Chairman Hawley: Do we have any further questions from board members? Is there anyone here that would like to speak on behalf of or against the proposal?

B. McCoy: Bob McCoy, Winchester Mayor. I think it's a great idea. I know you asked the question about CAFO discussions, and I was here for lots of them, they very heated, I was just joking with her the room was full. I think what they are doing is fine and you said you own 600 acres pretty much. And I am okay with that.

Chairman Hawley: Since there are no other parties speaking in favor or in opposition to the proposal I move that we have a roll call vote.

B. Davis: I second.

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

Chairman Hawley: Congratulations, thank you, sir. Next on the docket looks like we have BZA2023-9-CU, Randolph Central School Corporation requesting a Conditional Use to operate a school at all the parcels listed on their application. Once again would you say your name and address for the record please

R. Abraham: Rolland Abraham, the schools address is 103 N E Street, Winchester, Indiana.

Chairman Hawley: First off have you received Article V, Code of Conduct for the hearing?

R. Abraham: I have.

Chairman Hawley: Why don't you tell us what your wanting to do and we'll see what we can do with it

R. Abraham: Well, probably most people are aware that we recently purchased in four different transactions the corner at Union Street and Fourth Street. And because of that we just got to thinking and looking at the zoning and realizing that we probably needed to make sure that we are in conformity. I guess currently we are legally established as non-conforming and that doesn't sound so good, so we want to be conforming. That is our only purpose here is to make sure all of our properties, including what was just purchased are conforming. The 22.7 acres we bought about three years ago, the twelve and a half acres that we bought that was purchased prior to my coming here and then all the property that was there prior to that is all conforming. And so the purpose is here is just to apply for a Conditional Use to come into compliance on all the parcels that are listed.

Chairman Hawley: Okay. Do you have any short-term plans with this, or just making sure all your ducks are in a row?

R. Abraham: Short term plan is, well obviously you see we tore down the two houses and the Winchester Café just to clear the land. But the property at 407 East Fourth Street, the gray house that is still standing. That we do intend, the board intends to convert that to a Central Office Building. And so we will do that, we are currently working with Maze Design, and they will do that and hopefully it will function better than our current building. The upstairs of our current building has no use other than taking boxes of files up there. We have stopped having school board meetings up there. And so this building will function alot better and it will be done through a Rule 13 conversion of existing buildings. And so we will make the conversion and the architect will apply for that Rule 13 Conversion after those things are done. Obviously, we will apply for the building permit, that bid is about to go out soon. So that's the only immediate plans for the property. Owning those parcels that we recently purchased gives us some options down the road in terms of addressing our field house issue that we have never had before. The board has not made a decision on that regardless of speculation out there. But this does give us some options that we have just never had before.

Chairman Hawley: Alright is there anyone that would like to speak for or against the proposal?

B. McCoy: Bob McCoy, Winchester Mayor. I appreciate Rolland cleaning up that area it looks a lot better. I told him that once everything is cleaned we are planning on side walking that whole area and making it even a better looking area for... that is kind of the gateway to the school, the swimming pool and all of that so I just appreciate what they did.

Chairman Hawley: Thank you.

R. Abraham: Just for the record we did try to save the Winchester Café but the engineering report was really bad.

Chairman Hawley: Yes, some of us are old enough to appreciate the Cove.

R. Abraham: The main beams were water damaged and deflecting three and a half inches. And the floor wasn't going to meet code either.

Chairman Hawley: If there is no one else speaking for or against the proposal, I Motion that we take a roll call vote.

B. Davis: So moved.

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

Chairman Hawley: Next on our docket is old business, do we have anything that needs to come back and be addressed? Do we have any new business?

D. Johnting: We do have a meeting next month.

Chairman Hawley: Go team. Report of office committee and staff? Since I see none. Since we have no more reports from committee or staff I motion to adjourn. Seconded and adjourned

Chairman Hawley, Chairman

Debra Johnting, Recording Secretary

Bill Davis, Vice Chairman