

BZA MINUTES

AUGUST 22, 2023

Members present: Jason Hawley, Bill Davis, Jon Peacock, Don Calhoun, Jim Hufford, Jason Allen

Members absent: Drew Cleveland

Legal Representation: Jason Welch

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

Others present: Ed Thornburg, Susan Hufford, Daniel Armstrong, Maura Vasquez, Robby Zehringer

Chairman Hawley: Good evening, today is August 22, 2023 and it is 7 o'clock. I'd like to call the hearing of the Board of Zoning Appeals to order. First, I would like to have the members go around and state their names for the record. My name is Jason Hawley. Bill Davis, Don Calhoun, Jim Hufford, Jason Allen, Jon Peacock. Thank you very much. First on the docket is the approval of minutes from the July 18, 2023 hearing. I saw those had gone out, has everyone had a chance to read those?

B. Davis: I make a motion that we approve those as presented.

Chairman Hawley: All those in favor of accepting the minutes as presented. All those opposed, motion is carried, minutes are approved as presented. Tonight, we have two petitions on the ballot. I would like to remind everyone that the petitioners will have 15 minutes to present their petition. During this time there will be no interruptions or questions. After the presentation the board may ask questions. After that anyone wanting to speak for or against will have three minutes each and the petitioner will have an additional five minutes for questions. First up we have BZA2023-29-V, Daniel Armstrong. The location for the request is the southeast corner of Chestnut and Plum Street in Union City. Requesting a variance for more signage than is allowed by the Sign Code to comply with company branding on an ice kiosk that he is putting on that property. Is there someone here that would like to speak in favor of this proposal? Would you like to come to the table and please state your name for the record?

D. Armstrong: Daniel Armstrong.

Chairman Hawley: Have you been sent notice about certified mail and returned the receipts to the Area Planning office, and received the Article V Conduct of Hearing?

D. Armstrong: Yes.

Chairman Hawley: The time is yours, sir.

D. Armstrong: I'm just asking simply that the ice kiosk which is a seven foot wide by sixteen feet long machine. It's a vending machine. It's about ten feet high on the sides. The highest point of it is thirteen feet where you have the ice maker. There are graphics on all sides of that machine, that is

standard on almost all those machines across the nation. That you have the graphics on the sides, which has everything from pricing to saying "Twice the Ice". And in the front has a lot of which is about 70 feet. On the sides we have approximately 144 feet on each side, of signage. You can't see it, if your coming down Chestnut Street you're going to see one side if you're on Plum Street you're going to see the other side. The ends have about 70 feet of signage on there, the front being a lot of the directions and instructions on how to get your ice or water. So, it's a self-help ice vending machine. It's very pleasing to look at. They're not flashing, there is vinyl signage on the side. It is a nice-looking machine that is lit with LED lighting at night, but it is not bright lights like shining on the road it's just lighting that area. Which will be an improvement to that lot which is just a gravel lot right now. I am just asking that the sign variance to allow for, to stay with what "Twice the Ice" has as their normal ice kiosk machines.

Chairman Hawley: And what was the maximum height again?

D. Armstrong: The sides are ten feet high at their highest, so they are all, it's ten feet across they are sixteen feet long the front is seven by ten. Seven feet wide by ten feet high. I believe that you have some pictures of that, that she gave you. The signage is there, correct. The machine is set back from the road as the setbacks require, so it is not right on the road. It'll be 70 feet from Chestnut Street, 70 feet from the opposite side of the road to that machine. And from Plum Street 65 feet from the west side of that road to, not even that, we have about 100 feet to the machine from Plum Street.

D. Johnting: The signs are just a little bit over the maximum.

Chairman Hawley: Yeah, I was looking at it as we were talking, what is the maximum?

D. Johnting: The maximum is 200 square feet. This is 220.

Chairman Hawley: Okay.

D. Johnting: The maximum height from curb level now is 25 feet, so height is not a problem.

Chairman Hawley: No, just the overall.

D. Johnting: Because it has it on four sides, it goes over the maximum.

Chairman Hawley: Correct, I see, so essentially if it was backed up into something it that had that last side we'd be alright.

D. Johnting: Right.

Chairman Hawley: Just making sure I understood completely what I was looking at.

D. Johnting: But, there's no flashing lights.

D. Armstrong: No flashing, it's all vinyl and most of it is pricing other than it says "Twice the Ice". Most of it is pricing which draws people in to buy the ice at the price that it is.

D. Johnting: And like I said before, this may not sound like a huge deal for this sign but the next sign it could be, so I don't want to make those decisions.

Chairman Hawley: Are there any questions from the board?

J. Allen: Are you bring one to Winchester?

D. Armstrong: That's a possibility. That's the goal.

B. Davis: Jim, I'm going to ask you this, since you're in that area, what do you think of that spot, or do you see any issues?

Jim Hufford: No, there is nothing there that this thing is going to disturb. It's all business area and I don't think anything is going to disturb it.

D. Armstrong: Hopefully it will be a big improvement to that lot, it's just a gravel lot right now.

Chairman Hawley: Were there any other questions tonight for the petitioner from the board? Having seen none, Sir, I'd like to ask you to have a seat back in the audience. Now, is there anyone here in the audience that would like to speak in favor or against proposal tonight? Come up and state your name for the record? Again, you will have three minutes to make your motions.

R. Zehringer: My name is Robby Zehringer, I'm representing my mother Susan Judell, she resides at 218 South Plum Street. It is just south of the property where they are putting this. We just have a few questions. As far as the kiosk going on, what we are wanting to know if there are any light that are going to be aimed towards 218 South Plum Street up and over the fence? I believe we have about an eight foot fence. My mother's bedroom is just on the other side of that fence, so we would like to make sure that there's not going to be any lights that's going to be able to disturb her from sleeping. Is there going to be any other lights around the property besides what's on the kiosk, and is the kiosk going to be open 24 hours? And is the kiosk going to be making any kind of loud noise or any disturbing noises, being that she is a resident just on the other side of the fence?

Chairman Hawley: You want to answer those?

D. Armstrong: Yes.

Chairman Hawley: If you would come up so we've got you for the record. I will give you five minutes to answer any questions.

D. Armstrong: The lights are all at the top shining down onto the machine, so nothing is shining away from the machine, it's all shining down on the machine in front of the machine so people can see to vend. Then it is open 24 hours, you can't shut it down but it's constant for people, but I would say that it makes no noise, that was an option that I did not take. It won't play music, it won't do any of that, it is just sitting there. But it is open 24 hours, I'm guessing that the business in the middle of the night will be next to none most of the time.

Chairman Hawley: How high up are the lights?

D. Armstrong: So, if you have a picture there, there's like an apron across the front and they shine directly down and then they're across the side shining down onto the signage so that as you can see, the signage, it's not sitting on the ground shining up. They are on the machine underneath, shining down.

Chairman Hawley: So, they're not on a big pole or anything?

D. Armstrong: No, they are actually on the machine, so they are ten feet high, they are directly shining on the machine. They are not shining anywhere. They are like can lights only they are LED up in there.

R. Zehringer: Do you ever plan in the future to ever light the parking lot?

D. Armstrong: That will be depending on whether or not it is unsafe, in the parking lot. If I feel like it's not, there are street lights there so I don't think it will be dark, if we find that it is too dark on the edges, then we might do that, but we would always be aware of what the neighbors were thinking.

J. Allen: I was going to say, if you were going to do something like that, that might be something that you'd want to negotiate with the neighbors.

D. Armstrong: Absolutely.

J. Allen: So, here's the fence, those machines I see in Liberty, Richmond has some, a friend of mine owns those, the lights do just shine directly straight down, basically straight down from the machine. There is no illuminating light into the parking lot, very much it is just mainly so you know what your working on when you your ice out of the back. So, there's not, it not like being in this room, it's not even close to being as bright as this room. They are pretty dim lights and they are not going to shine out over an eight foot fence. Especially being that it's, well, I don't know how far it is from your fence to the ice machine, but if it's more than 45 feet away from that machine, you're not going to see the light.

D. Armstrong: You're right behind the fence, is that correct?

R. Zehringer: Yes.

D. Armstrong: I would say that to your house it's going to be over 50 feet maybe 60 feet.

J. Allen: I will say that if you've never been there, their ice is really good.

B. Davis: I do want to say that you know, I like the idea, but I would be concerned about going forward having the area lit up with parking lot lights. I would not like that myself.

D. Armstrong: That's not our goal, our goal is to be a good neighbor because we need those neighbors to frequent our machine.

B. Davis: I want to ask you Jason, can this be a condition?

J. Welch: No, the issue we have right now is that can he keep all the signage so basically if you say no on this, he would have the option of just covering up however many feet that are permitted by the Ordinance. He can still have the machine there, he can do what he wants with it none of those are problems, it's just the signage part of that, because it's all the way around. So basically, if you say no all he has to do is cover up part of the sign.

D. Johnting: This is Commercial-3, so it's pretty intense.

Chairman Hawley: I guess with that being said it would nice to at least keep your neighbors in mind.

D. Armstrong: We have no interest in having any neighbors upset. I don't want to make them upset, I want them to be happy.

B. Davis: Is that acceptable? Thank you.

Chairman Hawley: If there are no other comments, questions or concerns from anyone else, I petition we make a roll call vote.

B. Davis: I second that.

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

Chairman Hawley: Moving on to our next issue we have BZA2023-SP&V, Maura Vasquez. Looks like we are looking for special exception requesting to place a single wide mobile home behind her house, is part one. And this is two parts, the second one is to have a smaller home than 950 square feet. The mobile home is 12' x 40' and is 480 square feet, and zoned R-2. Would you please state your name address for the record?

M. Vasquez: My name is Maura Vasquez, and my address is 927 East Short Street, Winchester, Indiana.

Chairman Hawley: Why don't you tell us what you are looking to do and we'll see what we can do to help.

M. Vasquez: I'm here because I want to ask if there is a possible way that I can have this trailer that I bought here from here, from Winchester, from Paul Faddis. We purchased a trailer to move it into our property, we were able to convert into a R-2 but the trailer is a small little one bedroom. So, I wanted to see if there is a possible way that I could put that trailer in that is smaller than the requirements. It's a nice trailer, it's not a bad trailer, it's not trash. I bought it from the real estate, it used to be one of the car dealers offices out here in Winchester. I have been hiring all local people to help me with the sewer line and all that stuff so I am trying to give back to the local people for the project we are doing. It is not for a rental, it is just for a family member, my mother-in-law. She is sick and we want to have her have her own space.

B. Davis: And I know the trailer that you're talking about. And it's pretty nice.

M. Vasquez: It's nice, yes.

Chairman Hawley: I think probably the easiest way to go about this is to dissect these by separate issues. We have two of them on here. The first one requesting a mobile home in a residential 2 zone. So, I think if we tackle that one first then we can talk about the size. So, I think it just makes sense to go with that. I guess is that area, I'm not as familiar with that area as I probably should be down on Short Street. Is that someplace than take another home on there? Is that going to disrupt I mean, once again Ed you are my voice of reason on this sort of stuff?

E. Thornburg: No, the neighborhood would be fine, it's like having a one bedroom. If you tacked it on to the house it'd be room addition. I don't see any problem with it at all.

Chairman Hawley: Okay. I was concerned more about utilities and that sort of stuff, about getting everything back there and flooding and drainage, that stuff always ends up burning us eventually so I was just curious before we got into it.

E. Thornburg: It could flood, no I don't see any problem with it.

D. Johnting: If I remember right we calculated that for one home in residential it's ten thousand square feet, she could put eight homes on this property. We probably wouldn't let her do that, but it's more than adequate for two homes, and one of them is a one bedroom.

B. Davis: I think it's a good idea. I have no issues with it, I think if we move forward.

J. Welch: The only question that I would have, you don't intend to parcel this and sell it separately?

M. Vasquez: Oh no, no not at all.

J. Welch: Because it would probably have to be set up that it's attached to your lot because the size of the home couldn't be sold off into a separate lot.

M. Vasquez: Oh no no, I know. That's not our plan.

J. Welch: So, you could make condition that you could not or would not sell it?

Chairman Hawley: It's just me thinking out loud again, it's just because it's a trailer. I think if we had a tiny home or something like that I don't think we'd have an issue. I think the big hold up is the trailer and I don't, and with it being this size there isn't a whole lot of difference the trailer and a tiny home. But like I said that's just me thinking out loud.

J. Allen: I think the thing that would dictate that too is whether you had a foundation versus something that's mobile. A poured foundation would be a totally different scenario than something mobile. I don't have a problem with it either.

Chairman Hawley: It's always nice to have one of those mother-in-law cabins.

D. Johnting: In your picture the house directly to the west of there, sits a mobile home.

M. Vasquez: Yes, there are several mobile homes in the area. We have one right next to me and there are like two down the road. The good thing is the neighbor I have, he doesn't have anything, there is just storage, it's just a little garage type of thing.

Chairman Hawley: To keep everything nice and formal, is there any more questions? Is there anyone here from the community that would like to speak in favor or against the proposal? I motion that we have a roll call vote on the first proposal about placing a mobile home in residential.

J. Hufford: So made.

B. Davis: Second.

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

Chairman Hawley: And for our second variance on that, a variance for the minimum size of residential structure. About the size of it, again seeing no one to speak in favor or against the proposal, I motion to have roll call vote.

B. Davis: Second.

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

M. Vasquez: Thank you.

Chairman Hawley: Do we have any old business? Is there anything else outstanding? Next, we have new business. Reports from officers committee and staff.

D. Johnting: I am certain that we have a meeting next month.

Chairman Hawley: Fair enough, with that motion to adjourn.

J. Hufford: Second.

Chairman Hawley: So moved, thank you very much. Please don't forget to turn in your signed sheets to Deb tonight.

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Chairman Jason Hawley

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Debra Johnting, Recording Secretary

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Vice Chairman Bill Davis