

BZA MINUTES

AUGUST 18, 2020

Members present: Jon Peacock, Myron Cougill, Jim Hufford, Don Calhoun, Bill Davis, Bryn Albertson

Absent: Jason Hawley

Legal Representation: Jason Welch

Staff present: Randy Abel, Executive Director, Debra Johnting, Recording Secretary

Others present: Brittany Woodbury, Zane Woodbury, Marsha Cockerill, others

V. Chairman Davis: Alright, it's now 7 O'clock, we'll get this meeting started. Today is August 18, 2020. First thing on the agenda is to review the minutes of July 21, 2020. Was there a correction?

D. Johnting: Yes, Bryn was at the meeting and I missed her. So I have corrected that.

V. Chairman Davis: So do I hear a motion to approve the minutes with the correction? Second? All in favor? The minutes are approved as corrected. Ok, first on the agenda tonight is a docket represented by BZA2020-12-SP, Dustin Zane Woodbury, please come forward. This is a recorded meeting so if we could get your name and address for the record please.

D. Woodbury: Dustin Zane Woodbury, 1591 South 150 East, Winchester, Indiana.

B. Woodbury: Brittany Woodbury, 1591 South 150 East, Winchester, Indiana.

V. Chairman Davis: Alright, before we get started did you receive Article V, Conduct of Hearings? And Deb it was published in a timely manner?

D. Johnting: Yes.

V. Chairman Davis: Ok, please tell us what you'd like to do.

B. Woodbury: I would like to tear down our old garage at our home, I'd like to tear that down, and build a new one, and put in an above ground swimming pool inside the garage and teach Infant Swimming Resource lessons. This program is fairly new to the area, it teaches children survival swim, so if they were ever to fall into a body of water they self rescue. Because drowning is the number one cause of death in children one to four. The way this all got started with this whole process is that we have a son, and my parents have an in ground swimming pool, and the baby sitter has an above ground swimming pool, so, I love being around the water and I took him to the Greenville Y and got him in the Mommy and Me classes, and I said so when does he learn to float? And she said, sorry, they don't learn to float until they are 36 months. Well, that's three years old and that's too late. And so, I got home and I researched and the closest Infant Swimming Resource I could find was in Carmel, Indiana, and I found that Fort Wayne has one and that was it. There was one in Troy, Ohio, and so I committed five weeks to driving to Troy, Ohio 60 minutes one way to get my son into swimming lessons and fell in love with the program and I decided to leave home and travel to Florida for seven weeks to get trained in it. And then I thought coming home it would be great to find a host pool but that has proven

to be a challenge. To find a host pool that is willing to do it, a lot of host pools want a lot of rent, and so I told Zane, why don't we just build out on our property and pay to build for a building fee, and put in our own pool than to throw away money. So that's why we're here because I wanted to bring this program to the community and to teach children how to swim.

V. Chairman Davis: Question for you, is there an age limit?

B. Woodbury: So, they advertise, 6 months to 6 years of age, but I asked because I'm new, and they said "Brittany, we have taught parents how to float to swim, we've taught children fourteen years of age how to swim, so no, there is no age limit."

V. Chairman Davis: So, I'm not too old to learn?

B. Woodbury: I researched before I came tonight the Indiana death records, and so far this year in 2020 we are up to 35 deaths, drowning deaths. And that sounds like a lot, but one is too many. And accidents happen, and this is just one more step that if a little one gets out, or goes boating, this skill will just help them. And when I was down there in training, over the weekend, one of our swim families, the child was at the grandparents' home and mom was inside. And the child got out and fell into the pool and self rescued. She said "God brought me to swimming lessons, because you saved my son." And I know that Indiana is a lot different than Florida, but I think that it would be amazing for the community because everyone can learn to swim and every family has children at the Y learning to swim. And I am a former Y swim teacher myself.

V. Chairman Davis: I think it's a good thing you have, does this board have any questions?

J. Hufford: I think the timing is good too, because with this pandemic we have a lot of pools going in.

B. Woodbury: There's actually a pool shortage.

D. Johnting: I actually have a story close to home, my grandkids were staying with friends a couple years ago and they threw themselves a pool party early in the morning and my oldest granddaughter was able to save the youngest, I don't know how, but she did. Mom woke up and sensed something and ran downstairs and they were sitting on the couch with wet bathing suits on. None of them could touch the bottom, and I can't imagine what would've happened.

J. Hufford: We have an in ground pool at my house, and the other two were old enough that they learned how to swim, but our youngest daughter we taught her to flip over and keep her head above water at three months. She was three months old.

D. Johnting: What is your youngest age?

B. Woodbury: The youngest age is 6 months, when they can sit up on their own, when they build their back muscles. Our son who is now two, and they do refresher lessons, because as their body grows, you know the weight and stuff. So they come back and we readjust. So, we were at the hotel and our son wanted to go down the slide and I said, ok, you can go down it, and everyone looked at us because here is a two year old and he doesn't have on a puddle jumper or arm floaties and he went down the slide and then flipped over and then got to the front of the pool. And it teaches them to not fear the water but to have respect for the water. To have fun but in a respectful way.

V. Chairman Davis: Can you, what size are we looking at?

Z. Woodbury: Well, we haven't made up our mind on length, but we'll go 30 feet wide and 44 feet long is what I am looking at, the pool will be an 18 foot, round pool inside. I may end up extending it to 48 feet long, I don't know yet. A building is never big enough after you get it built.

V. Chairman Davis: You plan to use it year round then, I guess? And heat it?

Z. Woodbury: Yes.

D. Johnting: And the building will have to go through a state release.

Z. Woodbury: Yes.

V. Chairman Davis: Does anyone in the audience want to say anything at this time?

M. Cockerill: I have a couple questions, Bill.

V. Chairman Davis: Yes, Marsha, please come up and state your name and address for the record.

M. Cockerill: My name is Marsha Cockerill, I represent JEM Brown Farms, I am the M. My first question is, special exception--if they decided to sell the property it would not transfer to anyone else?

J. Hufford: No, they would have to be licensed, it's just like a doctor's office, they would have to be licensed to do that.

M. Cockerill: Well, that's what I thought, but I just wanted to make sure. I just wanted to make sure also that you know, I assume the building, our farming operation is not going to affect them wrongly or vice versa. I can't see where their program is not going to affect farming, but you know we do have sprayers spray, and that sort of thing. I sold them the property so I want to be a good neighbor.

Z. Woodbury: No, it's going to be built where the old garage is, we're going to take it down...

M. Cockerill: I don't blame you.

Z. Woodbury: So it's going to be in the center of the property.

B. Woodbury: And it's going to be enclosed.

J. Hufford: And you will have to adhere to state standards for a pool with ventilation.

B. Woodbury: We called the number of the person you gave us.

D. Johnting: Keith?

Z. Woodbury: Yes, Keith, and as far as the ventilation and everything goes, yes, it's going to be up to state code there. He said as far as the pool having to be certified through the state, since it's going to be one kid at a time and he classified it as private use since it's going to be one kid at a time. He said the pool won't have to be engineered. But the building will have the ventilation and stuff as far as that goes.

B. Woodbury: And that's what also makes this swimming program so unique, it's one kid at a time.

J. Hufford: Yes, you have to protect yourself and make sure that everything is up to state code.

V. Chairman Davis: Alright, anybody else?

B. Albertson: I just think it's great that you guys are doing it.

V. Chairman Davis: If there are no further questions I will entertain a motion for a roll call vote.

J. Hufford: I make a motion we take a roll call vote.

V. Chairman Davis: And do I have a second? Seconded, roll call vote please.

D. Johnting: Jason Hawley, absent, Bill Davis, yes, Bryn Albertson, yes, Jon Peacock, yes, Myron Cougill, yes, Don Calhoun, yes. Motion approved.

Z. Woodbury: Thanks guys.

V. Chairman Davis: Do we have any other business, old or new?

R. Abel: We have some new business, we have a complaint that's been registered with our department, do you want to show them the pictures? It's down on North East Street, it's a person who is operating a business in a residential area. So, basically we want just an ok from this board. It can be the APC or the BZA.

J. Hufford: Is it a business where he has people coming to the house?

R. Abel: He is selling cars. I assume that people are coming to the house to buy them.

B. Albertson: He is all over Facebook selling cars.

R. Abel: You really need a state license to sell up to five cars a year.

V. Chairman Davis: Where about is this?

B. Albertson: North East street, kind of on the edge, kind of between 4th and 3rd, about half way...he's on the east side of East street.

D. Johnting: The neighbors have been threatened, they can't get out of their driveway, and older couple lives there, the older man just passed away. Hopefully she is not there alone.

J. Hufford: Are we getting complaints on it? What does our ordinance say about this?

D. Johnting: In our Ordinance, 10.06.4 Violation Remedies, (a) The Area Planning Commission or Board of Zoning Appeals may initiate a suit for injunctive relief, either temporary or permanent, in the Randolph Circuit Court or the Randolph Superior Court and such injunctive relief may be to restrain any person, individual, firm, company or corporation from violating or continuing to violate any provisions of this Ordinance or zoning laws of Indiana.

J. Peacock: Who is petitioning for us to do that?

D. Johnting: Yes, there are two, plus the older couple. One neighbor and the police. We didn't have the older couple sign a complaint because we didn't want them in a harmful situation.

B. Albertson: I made an informal one. He lives just down the street from me.

R. Abel: Two have signed complaints, we don't do anything until someone gives us a signed complaint, otherwise we'd be doing nothing but this.

D. Johnting: Because we send that to them, so they know who's complaining.

J. Peacock: Why wouldn't they be here to explain?

R. Abel: Well, they've been given letters and opportunities twice now.

D. Johnting: You mean the complainers?

J. Peacock: The people complaining. Yes.

D. Johnting: We have their letters.

R. Abel: No, the people in violation. So, then we do research, and what we do, we send a letter out to the person who is in violation, and give them a chance to defend themselves, and they have refused to do that. So now, what we're going to do is send them a letter that says they are in violation and they have fourteen days to correct it. And then I guess we'll have Jason file with the court for an injunction. And so, that's pretty much, I mean you think, I'd rather have the BZA or APC say they'd like for us to move forward with it.

J. Welch: Randy can do it on his own, but he's just trying to get some guidance to make sure that the board is behind him on this decision. Because it's a long, expensive process. And the last one...they've still got two cars there, I just went by there the other day and they've still got two cars there.

R. Abel: The same two cars.

B. Albertson: Always there.

R. Abel: They haven't added and they haven't taken away.

J. Welch: I talked to Meeks, they have an ordinance that says that the cars have to be plated, so if they are not plated, then the city has the authority to tag them and if they are not moved within three days they can tow them. And he says they have an impound yard now for the city and they might be able to do some good at least making a dent in it with the ones that are not plated.

D. Johnting: One of the complaints of the older couple early on is that they couldn't sleep at night because the saws run all night long, they are cutting cars apart. They are not in one piece. And there are boys in bicycles running in and out all night with backpacks.

V. Chairman Davis: Is there any way the owner can turn it into a business lot?

R. Abel: Not without rezoning, and the city is not going to let that happen. That's the only way is through rezoning.

B. Albertson: And it's not like he's fixing up a private car he owns and is restoring.

D. Johnting: They put the doors up in the garage and they cut cars apart, all night long.

B. Albertson: Yes, all night long.

R. Abel: With the Facebook evidence, it's obvious he's doing business. That's how we got the last guy, he put his business up on Facebook and that's evidence he's doing business.

V. Chairman Davis: Can we just take the majority vote here?

J. Welch: Randy can do it, he just wants a recommendation.

V. Chairman Davis: So if you're for supporting Randy on this, say aye. All ayes, sounds like we are in favor of it.

D. Johnting: So, we have been doing this since June, they are getting our letters and not responding.

R. Abel: Jason has better luck getting a response.

V. Chairman Davis: Is there any other business that needs to be discussed tonight? If not I will take a motion for dismissal?

J. Hufford: So moved.

B. Albertson: Second.

V. Chairman Davis: All in favor, we are adjourned.

Jason Hawley, Chairman

Debra Johnting, Recording Secretary

Bill Davis, Vice Chairman