

BZA MINUTES

JANUARY 19, 2021

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

Absent: Bryn Albertson

Legal Representation: Jason Welch

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

Others present: Robert Miller, Robin Mella

Chairman Hawley: Ok, it's now 7 O'clock, this January 19, 2021 meeting of the BZA I would like to call to order. First on the agenda we have approval of minutes from way back on October 20, 2020. Has everybody had a chance to go over the minutes?

B. Davis: I'll make a motion to approve as presented.

J. Hufford: Second.

Chairman Hawley: All those in favor of approving the minutes as presented say aye. All those opposed? Alright, looks like next up we have election of officers. Currently we have Chairman as Jason Hawley, and Vice Chairman currently is Bill Davis. Do I have anybody else that would like to be Chairman, believe me I have no problem stepping down on that one. Would anybody like to take Mr. Davis's position?

J. Hufford: I make a motion we keep the current Chairman and Vice Chairman as we had last year.

D. Calhoun: Second.

Chairman Hawley: All those in favor say aye, all those opposed, ok, motion carried. It looks like on the agenda we only have one petition, BZA2021-2-V, for Robert Miller. Is anyone here willing to speak for this petition? Would you please come to the mic and state your name and address for the record please?

BZA2021-2-V, Robert Miller

R. Miller: Rob Miller.

Chairman Hawley: And your address sir?

R. Miller: 3632 East 1060 South, Lynn.

Chairman Hawley: Ok, have your received Article V, Conduct of hearings?

R. Miller: Yes.

Chairman Hawley: Alright, why don't you tell us what we're looking at, or what you're hoping to do and we'll see if we've got any questions for you.

R. Miller: I applied for the setback variance to be decreased next to the farm field around me so I need to tear down the existing two story barn that's a hundred year old, typical old barn, take it down because I am land locked there, there's nowhere else to build. Take that barn down and then I am going to build an L shaped barn. We've measured it out, I have had Flaig Lumber come out, I am actually going to be, the building would be about ten feet from my fence, distance from the property line. Of course there's going to be a pad, a built-up clay pad, it's going to be closer. And I don't plan on taking the fence down because I thought it might stop corn stalks from the combine. I know how hard they come out. But, if I had sided that barn twenty five years ago, it probably would still have been still in decent shape, but it's beyond repair. I keep concreting the foundation and trying to patch it and fix it. It will be cheaper to tear it down and build a new one.

Chairman Hawley: So is it three feet from the pad or three foot from the actual building?

R. Miller: I just asked to get closer than the fifteen foot, I think it should be about ten foot from the property line, the building should. It might be nine, but I don't want it to be too close to have a problem. I am going to try to keep it approximately nine to ten feet from the property line. The actual buildings. And they'll be in an L shape right in the corner.

J. Hufford: This is on the west side?

R. Miller: Correct, it would be the northwest corner of my property, correct.

J. Hufford: You've got down here it would be three feet from the property line.

R. Miller: I'm sorry?

J. Hufford: On the application here it has it down that it will be three feet from the west property line.

R. Miller: Well, and that was, I just asked, I've never done this before, I just asked her, I said I need to be closer to the property line than the fifteen foot setback.

J. Hufford: Yes.

R. Miller: I really thought that we were going to be closer than ten foot until we measured. Because there's an existing farm shop there, that I am not going to tear down. It is what, I am only going to be two feet from it. And I have tried for ten years to buy property off of Mrs. Johnting, and Scott, and I haven't had any luck. I have tried to buy a hundred feet or an acre, or ten acres, or whatever she would sell. So, this was my only option. And with having a two story barn, you've got hay in the top, straw, all that has to go into the second barn, because the one is just going to be stalls and the other barn will be hay storage, sawdust and then a riding arena. And I am actually going to keep some equipment in it.

J. Peacock: So, you said there is a fence on the property line now?

R. Miller: Yes, there is a board fence I built ten years ago. A four board fence. And Scott and I talked about the corn cobs coming out of the combine and I have been hit with them before when I was out in the field, and I could see how they would dent a building. But I think with that fence being there that will eliminate that as much as possible.

J. Peacock: Do you feel like the, I mean my concern for anyone putting a building up closer than fifteen feet is building it first, and then maintaining it, with eaves troughs or repairing it, getting some equipment around there between the property line and the building to maintain....

R. Miller: When I built the new fence, ten years ago, I disced and seeded about ten foot onto Scott's property and I mow that and try to keep it, to keep the weeds down on the fence row. I can spray, drive around the fence all the way down the property and spray the fence and keep up with it. I mow it with a lawn mower so I've got a fair amount of room, ten or almost twenty foot before you get to any corn rows.

J. Peacock: But there is a fence in the middle of that?

R. Miller: Correct, correct. A four board, board fence. And I'm going to put a gate in it so that I can get in and out, in and out into the west end of the back door.

B. Davis: Mr. Miller, is it fair to say that you have a pretty good relationship with the owner?

R. Miller: And I'm not building it, this application and whatever, that was his idea, I had never heard of it.

B. Davis: Because I saw where it sounded like they were, the landowner was unwilling to sell but has agreed to the variance.

R. Miller: He suggested it, he says I could build right on the property line.

D. Johnting: He's not the landowner, though.

R. Miller: That's right. His mother...

D. Johnting: The landowner hasn't agreed to anything that I am aware of.

R. Miller: His father's estate I believe owns it. But we get along very well.

D. Johnting: So, when you applied, you wanted three feet, do you want to modify your petition?

R. Miller: No, if they will agree to three feet and I'm at least ten then I know I'm safe.

D. Johnting: It's either going to be three or four or seven or ten or whatever, but we need a number.

J. Peacock: Robert, my concern is, that, like I am thinking about having someone come in and make eaves, replacing eaves on a barn. How would they get in there and work if it's..? I mean if it's going to be ten feet I'd rather make it ten feet. That would be to me, more acceptable than three. Because if I was to buy that property and the barn is right on the line, you wouldn't be able to help it if there had to be repairs done to that barn, but to get on that property...

R. Miller: Correct.

J. Peacock: You wouldn't be able to help it. So, I am sure there is a reason it was written in at 15 feet. Probably for this type of repair and maintenance of, and then drainage around that building that you would want to be able maintain in case the next person isn't willing to talk with you. In case they sell

it, not that they would want to sell it. But I'd rather it wasn't three feet, that's just a one person opinion. I wouldn't be in favor of three feet.

R. Miller: Ok.

Chairman Hawley: I kind of see where Jon is coming from, I mean that three feet is really tight. The ten gives you a little bit more area to work like. I'm even thinking about construction, how do you actually construct the thing with only three feet of clearance on the back side? Raising up joists and even framing seems like it's going to be really tight just to build it. I guess that's kind of where I'm standing at. The three is really tough. The ten gives you a little bit of...

R. Miller: It's actually going to be about nine or ten foot from that fence, on my property. I just asked for three back in December because I wasn't sure, we hadn't measured it enough to know exactly where it's going to be. I didn't want to ask for six and end up being only 5 foot from it. I wanted to make sure I was covered correctly.

Chairman Hawley: Right, but where we're bumping into is because you put three, that give us just that three. If you say ten feet, we can go that ten feet. But if you're saying three, that means that you can overshoot that. See where we're kind of sitting at?

J. Peacock: Because I want you to be able to do what you want to do. But I also want it to be something that is workable for you to maintain your building without definitely having to get on the neighbor's property. So, if we were to vote and if we leave it at three feet, and we vote and he doesn't get four positives, then this is not allowed, right? He can't change it after that vote, correct? To ten feet?

J. Welch: Correct, he would need to modify it now.

J. Hufford: Yes, I was going to say that he could probably modify it now, right?

J. Welch: He could still make a request to modify it to nine feet.

R. Miller: That's what I was just getting ready to ask, if I could change it to nine feet? And then because, we have measured it twice, me and the contractor, just to make sure. And you're standing out there and it's like, well, it's about nine foot and so many inches. So you're about ten foot from it.

D. Johnting: So, that's ten feet on the ground, or ten feet from the overhang?

J. Peacock: So, another question, if you're building that, can the pad be, I mean if we say ten feet, it would need to be kept to ten feet, could the pad be closer than ten feet?

J. Welch: It's just the building, right?

R. Miller: It's just going to be six inches of dirt. It's going to be top soil and [], something to mow. It's just going to be sloping away grass basically or sod.

J. Peacock: Ten feet is still pretty close, I don't know how you would maintain it well.

R. Miller: I hope to not have to do a whole lot to it. I know we're going to put up gutters and what not. It should be brand new and we shouldn't have too much maintenance to do on it right away.

J. Peacock: I've got two barns that I have had built and I would say don't count on it. One of them had to be rebuilt while it was under construction because it came down. The builder said that he'd never had a barn to do that. But we had one of those stupid straight line winds. So, you never know. That's where I strongly, fifteen is there for a reason. Since the family is amicable too, and I can understand if they are not opposed to having it somewhat closer. But I think for future relations with whomever is farming that ground, it would be better if it was at least ten feet from the property line. That is just one person's opinion. But I probably wouldn't be in favor of anything closer than that.

R. Miller: When we talked with the contractor, he has no problem making it shorter, the length of the building, but we just can't narrow it. The width of it, because of the rafters. It was 40' x 60', and he said we could make it 40' x 55' if we want to, and the length of the hundred foot building will scoot us back if we take length off the hundred foot building it will move us farther away from the fence, on the west side and if we take some length off of the sixty foot building it will bring us farther away from the north side. So if we have to be at 10', we can make that work.

J. Peacock: That's what I was hoping that there would be something that you could still build what you want to build, and still have it that you can work around it.

J. Welch: So am I hearing a motion to amend it to ten foot? Only a five foot setback? Is that correct? I mean a five foot reduction? So, a ten foot total setback?

R. Miller: Correct.

J. Welch: Is that what you want to do?

R. Miller: Yes, that would be fine.

J. Hufford: You need a motion, you say?

J. Welch: Well, it would be his motion.

R. Miller: Ok, I will make that motion.

D. Johnting: Just request to amend your petition to a 5 foot...

J. Welch: A five foot variance.

D. Johnting: A five foot variance instead of twelve.

R. Miller: Ok.

D. Johnting: If you want to do ten feet, then you need a five foot variance.

R. Miller: Ok, I make a motion that we change it to a five foot variance?

D. Johnting: You want to amend your petition for a five foot variance instead of twelve feet.

R. Miller: Correct.

D. Johnting: Ok, I don't want to put words in your mouth, if that's what you want, Robert would like to amend his petition for a five foot variance instead of a twelve foot variance. So he can build up to ten feet away from the property line.

R. Miller: Ok.

B. Davis: I think there's no questions then....?

Chairman Hawley: Are there any other questions? Do we have anybody in the audience that would like to speak against the proposal? Alright, with no further questions, and no one to speak against the proposal I make a motion that we take a vote.

B. Davis: So moved.

J. Hufford: I'll second.

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

R. Miller: Ok, thank you gentlemen.

B. Davis: Good luck!

Chairman Hawley: Thank you. Alright do we have any old business? Do we have any new business? Seeing that we have none, I make a motion to adjourn.

B. Davis: Second.

Chairman Hawley: All those in favor of adjournment this evening, say aye, all those opposed. Thank you very much ladies and gentlemen.

Jason Hawley, Chairman

Debra Johnting, Recording Secretary

Bill Davis, Vice Chairman