WINFIELD BOARD OF ZONING APPEALS
MEETING MINUTES
FEBRUARY 11, 2021 @ 5:30PM

The Winfield Board of Zoning Appeals held their regularly scheduled meeting on Thursday, February 11, 2021 at the Winfield Town Hall at approximately 5:30 p.m. Those present: Jim Hajek, Mark Nelson, Sash Becvarovski, and Phil Metzger. Austin Holtz was absent. Also present was Nick Bellar, Zoning and Planning Administrator; and Attorney Ryan Deutmeyer.

ORGANIZATIONAL SESSION

Appointment of:

Chairman – Jim Hajek nominated Mark Nelson for Chairman. The nomination carried 3-0, with Mark Nelson abstaining.

Vice Chairman – Mark Nelson nominated Jim Hajek. The nomination carried 3-0, with Jim Hajek abstaining.

Secretary – Mark Nelson nominated Sash Becvarovski. The nomination carried 3-0, with Sash Becvarovski abstaining.

Attorney – Mark Nelson motioned to retain Attorney Ryan Deutmeyer. All were in favor 4-0.

MINUTES: November 12, 2020

Sash Becvarovski made the motion to accept the minutes from the November 12, 2020 meeting. Jim Hajek seconded the motion, the motion carried with all in favor 4-0.

OLD BUSINESS

1. **Docket BZA 2020-03 – Findings of Fact**

Sash Becvarovski made the motion to accept the Findings of Fact for Docket BZA 2020-03. Phil Metzger seconded the motion, the motion carried with all in favor 4-0.

2. **Docket BZA 2020-04 – Findings of Fact**

Sash Becvarovski made the motion to accept the Findings of Fact for Docket BZA 2020-04. Jim Hajek seconded the motion, the motion carried with all in favor 4-0.

NEW BUSINESS

1. **Public Hearing and Recommendation to the Town Council:**
   Docket BZA 2021-01 – Variance from Use
   Owner: **Tom Salkovski**
   Petitioner: **Tom Salkovski**
   Vicinity: **11025 State St.**
   Request: **Use Variance to permit soccer field use per Chapter 156 Zoning, Appendix A.**

Tom Salkovski stated he is here for a use variance to use the 6 acres on the west end of his property for a soccer field. He is looking to expand the soccer field that is currently to the south. He would like to rotate a quarter every other day to help maintain the fields. They typically get beat up with continual use throughout the spring and with the weather. He would like to be able to repair and reseed the fields. They are only spreading the practices out they are not expanding the fields for more use or increasing traffic to the area. He would like to use four quadrants.

Mark Nelson opened the Public Hearing at 5:36p.m.

Terry Willie, 11188 State St., Mr. Willie stated it is his understanding the use variances runs with the land and since the land has not been subdivided yet, it seems inappropriate to talk about a use variance at this time until it has gone for the subdivision request and the rezoning. If a use variance is passed now, it is for the whole lot and would then run with the land that is going to be changed to part residential, part AG, which would allow the front section that faces State St. to be used as part of their soccer venture and he has a problem with that. Sash Becvarovski asked Mr. Willie which area of the front of the lot is he concerned about being used for soccer. Mr. Willie stated he was referring to the area with the house on it, it has not been subdivided or rezoned so the use variance would be for the whole area. He believes it would be premature to grant this use variance before those actions because then there is no way to section off the area for use. Attorney Deutmeyer stated if the Board would prefer, the approval of the use variance could be subject to the approvals being obtained for the zoning and subdivide from the Plan Commission, this would alleviate his concerns about the use being applied to the front half, the application references the 6 acres they are looking at for the use. This will also eventually go to the Town Council and if he wanted to, Mr. Willie could also voice his concerns to the Town Council as well before they make their final approval.

Donald Shelmon, 1195 Cullen St., Rensselaer IN 47978, stated he is an attorney here to represent Virginia Fox who runs an equine center here in Winfield since 1977. He stated she has legitimate concerns about the use variance that adjoins her horse facility. One of her concerns is the boarding of this use, there is already a soccer field on that property 800 feet away from her property which was approved by this Board in 2009. That has already impacted her facility, the animals react to the noise from the field 800 feet away by the children and spectators not only out side but within in the facility. This has impacted the horses while someone is riding them, the noise spooks them. Now putting one adjacent to them would unequivocally have an adverse impact to her facility. This would also impact her home that will be next to this field and the residence across from the field. In 2009 there was an ingress and egress indicating there was road out to the north of the area, impacting of the traffic going in and out from 109th Ave. The Board at that time only requested the entrance be paved and that is all that has been done, the rest the runs along the Fox's property is all dirt road which kicks up dust affecting the horses and people in the area. He questions the petitioner's intention of only expanding and not increasing, when the opportunity to do so will be there and can utilize both fields. These fields are not for the children in the town to use, this is for the elite people and children to pay for the use of this facility. It is not a town park; it is a commercial business that is happening and will continue to happen and be expanded. Mr. Shelmon also had the minutes from the October 13, 2009 meeting. He read from the minutes a statement made by the owner or applicant, if in the future demand were to outgrow the current location, they would probably have to expand out in Lowell. They indicated then that if they needed to expand, they would not do it at this location. He said that is the expectation represented that allowed them to get approval at that time. Now they are saying 12 years later they need to expand which does not reflect that prior representation. He also stated this commercial use is not properly zoned for this area and they are side stepping around the town code to get approval for this. He stated the town's engineer in 2009 noted the drive needs to be maintained and it has not been since then. He spoke on the increase in traffic on 109th and the danger of the entrance to the field on 109th. He asked they review the recommendations from the town engineer at that time including paved and painted parking lots and concerns over drainage and wetlands in the area. The engineer made recommendations for a recreational area. Mr. Shelmon noted the income this commercial entity has made in the past years. He is not against a person starting a business but does not believe this land this zoned for commercial use. He stated there are certain items they need to consider before granting this use. One is safety as he already stated with traffic going in and out of 109th, general welfare of the area, the use of the area will negatively affect the adjacent properties affecting their property values, affect of the animal and use of animals to the riders, the need for the variance to pertain to the property involved which as not been shown because nothing has been presented. He stated it would appear they have other intentions for the land as well based on the subdivide they have requested for the next Plan Commission meeting. Sash Becvarovski asked if his client runs a business and if it is open to the public, Mr. Sheldon said yes. Sash asked about the access drive to the soccer field, Nick explained it is paved on the apron front part of the drive off of 109th as requested. Sash asked if the drive on Mrs. Fox's property that goes to the barn is paved. Mr. Shelmon said it is not but it is not a dirt road either. Another person from Mrs. Fox's stable stated the drive cannot be paved because it is not safe for the horses, they could slide on the surface if it is wet. Sash asked if they have birthday parties and other children at their facility. She answered yes, they hold events for children there. Sash asked if the noise from the parties have a negative effect on the horses. She explained it is more controlled with fewer children, it takes place indoors and they are told as they enter that loud noises will scare the horses and how to act around a horse.

Alex Kutanovski, 1504 N. Main St., Crown Point IN 46307, stated he believes everything Mr. Shelmon said is pure speculation and lies. There are only five things to look at for the findings of fact. The first is public health and safety. He was at the 2009 meeting and presented the use at that time. Since 2009 there have been not accidents on 109th from that entrance, it is not a public nuisance. Residents and kids of Winfield do participate in this program. It is no different than those who use the stables. It is mostly community kids or local kids in this program, not people from Chicago or further. The next item is if

adjacent properties will be affected. The same residents have been around the area for the past 12 years and only Mrs. Fox has voiced complaints. He lived on the property before and did not have a problem with it. It is controlled with scheduled practices; it is not park where it is a free for all with a bunch of kids running around screaming. He does not believe the adjacent properties are negatively affected. There is something peculiar about this property, it is the natural progress of expansion, there's a house in the front and the back acreage is being used for soccer. More kids are not being added, they are being rotated in use of the fields. The fields get beat up and there's no reason the area next to the existing field cannot be used for the same purpose. In regards to hardship, trying to utilize this house, the back area becomes unusable. No one wants to have 10 acres to maintain or farm on anymore. Winfield's farming life is coming to an end and more land is being used for residential developments. It is a different society now than it was ten years ago. It does not interfere with the comprehensive plan, a developer is also presenting a new subdivision tonight that is aware of the fields and willing to incorporate them into the way their plan will function. He also stated this is not affecting property values and does not believe the value of Mrs. Fox's property has declined in the past 12 years.

Cody Fox, 11255 State St., stated he does not live adjacent to the soccer field but he does farm the 2.5 acres, some people do farm smaller parcels. He has had problems before of children coming on to his private property through the tree line after balls. Two have almost been run over by a hay mower because they were not paying attention. People always wander on to his property. He does not believe what Mr. Kutanovski said about farming.

Terry Willie, 11255 State St., stated because of the size of his property and the required amount of distance for a notification for a public hearing, he is not notified if something is happening unless it is happening right next to him. He was not notified when the soccer field was first going in and did not find out about it until he heard the noise from the children. He chooses to not sit in his front yard anymore because he can still hear them even 400 feet away. He has not complained about them, he understands they have to have a place to play. What he does not like is hearing adults scream that their kids, so the noise is annoying to him and he is further down the road. Mr. Willie also spoke about the wet lands that were on the property before. They were mitigated wet lands that were planted and engineered for the clean water act, not long ago the property owner removed all of the trees and vegetation from the wet land. Now the nitrogen rich run-off from their fields creates a mud hole with nothing but mosquitos and no other wildlife in the area. They have also caused flooding on Mrs. Fox's property when they changed the elevation from the development of the first field.

With no further comments, Mark Nelson closed the Public Hearing at 6:16p.m.

Mark Nelson asked Mike Duffy about the drainage. Mike stated they have only submitted a drainage plan for if they were to put a residential development on the property not a soccer field. Nick Bellar stated it appears to drain south based on their plans. Mike explained when someone comes in for a subdivide the town requires the petitioner to be able to show the second lot will be a buildable lot, meaning one could build a residence on the property if they choose to in the future. The detention area on the plans is for if a house were to be there not a soccer field. Sash Becvarovski asked if grass would help with erosion. Mike said it would help, grass has less of a run off than just field. The flat grading of the field would also slow down the runoff more than something with a pitch to it. Mark asked Mr. Salkovski about the access road in the back of his property. Mr. Salkovski said he doesn't want people using that road. Mark said he would like that access gated off and for it to be noted as a maintenance road only. Mr. Salkovski agreed. Sash confirmed this is only to rotate the use of the field, not to add any more players. Mr. Salkovski said that is correct. Sash Becvarovski made the motion to make a favorable recommendation to the Town Council for Docket BZA 2021-01, variance of use for a soccer field, under the conditions of approval by the Plan Commission of the rezoning and subdivide of the property, a marked maintenance gate at the access drive off of State St., and removal of the use variance if the property is ever sold. Jim Hajek seconded the motion, the motion carried with all in favor 4-0.

STAFF/ATTORNEY REPORT:

Nick Bellar stated he is working on revising the solar panel ordinance to make it more realistic to offer supplemental power for a house. They have had a number of variance applications on this and the current 80 square feet maximum is not feasible.

With no further business before the Board, Sash Becvarovski made a motion, seconded by Jim Hajek to adjourn. The motion carried with all in favor 4-0.

ADJOURNMENT: 6:24 pm
Attest:

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Board of Zoning Appeals Secretary

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Board of Zoning Appeals Chairman

Transcriber: Kim Wachowski
Administrative Assistant