

**MINUTES**

**POSEY COUNTY  
BOARD OF ZONING APPEALS  
REGULAR MEETING**

**THE HOVEY HOUSE  
330 WALNUT STREET  
MT. VERNON, IN 47620**

**APRIL 8, 2021  
5:00 P.M.**

**MEMBERS PRESENT:** Mr. Larry Williams-Chairperson, Mr. Ron Fallowfield-Vice Chairperson, Mr. Mark Seib, Mr. Larry Droege, Dr. Keith Spurgeon (via Zoom), Mrs. Beth McFadin Higgins – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant

**MEMBERS ABSENT:** None

**APPROVAL OF MINUTES FOR LAST REGULAR MEETING:** Larry Droege made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Ron Fallowfield. **Motion carried.**

**VARIANCE:**

**DOCKET NO:** 21-06-V-BZA  
**APPLICANT:** Kenda Hartmann  
**OWNER:** Thomas J. & Kenda J. Hartmann  
**PREMISES:** Lot Number Eight (8) and the North Half of a Vacated Alley in William P. Juncker’s Addition to the City of Mt. Vernon, Indiana. Section 5, Township 7 South, Range 13 West, lying in Black Township, Posey County Indiana. More commonly known as 1311 Elk St., Mt. Vernon, Indiana. Containing 0.268 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

**NATURE OF CASE:** Applicant requests a Variance for the relaxation of front yard setback from 25’ to 15’ for construction of an 8’ x 23’ porch in an RS (Residential Single-Family) Zoning District under Section 153.043 (B) (1) (a) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

**KENDA & TOM HARTMANN:** 1311 Elk Street, Mt. Vernon, Indiana. We are actually just

wanting to build a roof over an existing porch that was built circa 1976 and then the setback being less than 25' from the street that we live on.

**RON FALLOWFIELD:** You say the concrete is already there?

**TOM HARTMANN:** Yes, we are just wanting to build a... we are going to tie a roof into our house that covers the existing porch.

**MINDY BOURNE:** This is a nonconforming structure meaning it existed before the current zoning ordinance. So now they are adding this roof, therefore it requires the Variance.

**LARRY WILLIAMS:** Any more questions from the Board?

**MARK SEIB:** Are you closing in the sides?

**KENDA HARTMANN:** No.

**LARRY DROEGE:** Is there just a standard overhang over the concrete slab or does that 8' include the overhang?

**KENDA HARTMANN:** No, the 8' does not include the overhang. It was not specified that it needed to include the 2', or approximately 2', overhang.

**LARRY WILLIAMS:** Any more questions from the Board? Is there anyone here wishing to speak for or against this application? Seeing no one, the public portion was closed. It was opened to the Board for discussion.

Larry Williams confirmed with Mindy Bourne there were no emails, phone calls or letters.

**RON FALLOWFIELD:** I pass this house frequently and it is a wide enough street. This will not block the view in any way.

A motion was made in the affirmative by Ron Fallowfield to approve Variance 21-06-V-BZA. Motion was seconded by Larry Droege. **Roll call vote (5-0) Yes.**

**MINDY BOURNE:** This application has been approved. You will need to come into our office for your permit before you start construction.

**VARIANCE:**

DOCKET NO: 21-07-V-BZA

APPLICANT: Donald Montgomery

OWNER: Donald & Margaret Montgomery

PREMISES: Part of the Southwest quarter of the Northeast quarter of Section 35,

Township 5 South, Range 12 West, lying in Robinson Township, Posey County Indiana. More commonly known as 10607 Downen Rd., Wadesville, Indiana. Containing 5.92 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Variance for the placement of a pool in the side yard in an A (Agricultural) Zoning District under Section 153.024 (B) (7) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

**DONALD MONTGOMERY:** 10607 Downen Road, Wadesville. My wife and I want to install an inground swimming pool in our side yard.

**MINDY BOURNE:** I believe you stated when you came to obtain the permit that this was the only location that was suitable for the pool due to...

**DONALD MONTGOMERY:** Yes, it was either the front or side yard. The backyard we have our septic system and perimeter drain that goes around that as well. It is approximately 100' from our back door.

**LARRY WILLIAMS:** You said it is an inground pool?

**DONALD MONTGOMERY:** Yes.

**LARRY DROEGE:** Is there anything in the yard where you want to put the pool?

**DONALD MONTGOMERY:** No.

**LARRY WILLIAMS:** Any further questions from the Board? Hearing none, you may have a seat. Is there anyone here that would like to speak for or against this proposal? Hearing none, we will turn this over to the Board for discussion.

Larry Williams confirmed with Mindy Bourne there were no emails, phone calls or emails.

**LARRY DROEGE:** I have no concerns or questions. The utilities are all out of the way.

A motion was made in the affirmative by Ron Fallowfield to approve Variance 21-07-V-BZA. Motion was seconded by Mark Seib. The Special Use Voting Sheet was read. **Roll call vote (5-0) Yes. Motion carried.**

**MINDY BOURNE:** This Variance has been approved and you will receive a letter from our office. You will need to come into our office to obtain your Improvement Location Permit before starting construction.

**SPECIAL USE:**

**DOCKET NO:** 21-05-SU-BZA

**APPLICANT:** Addison Schmitt

**OWNER:** Addison K. Schmitt

**PREMISES:** Lot Number Three (3) in the R & S Development Company Subdivision part of the North Half of the Northwest quarter of the Southwest quarter of Section 22, Township 5 South, Range 12 West, containing 0.96 acres, more or less, lying in Robinson Township. More commonly known as 9121 Damm Road, Wadesville, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

**NATURE OF CASE:** Applicant requests a Special Use for a home occupation (custom fabrication, welding, metal forming and metal signs) in an A (Agricultural) Zoning District Section 153.032 (B) (12) Use Unit 28 – Home Occupations, and Section 153.173 of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

**ADDISON SCHMITT:** 9121 Damm Road, Wadesville, Indiana. I am asking for a Special Use for a home occupation.

**LARRY WILLIAMS:** Will you have a lot of traffic in and out of your residence?

**ADDISON SCHMITT:** Occasionally there will be repair work. Maybe one or two. I don't expect a lot of repair type of work. I shouldn't have very much traffic. Most of the time, I deliver what I make.

**LARRY WILLIAMS:** Do you have adequate parking for those people that will be coming in?

**ADDISON SCHMITT:** Yes.

**LARRY DROEGE:** I have been to this location. There was plenty of room to park. Addison, are you using the same location that you had been using previously for your hobby?

**ADDISON SCHMITT:** Yes.

**RON FALLOWFIELD:** Is that a lighted sign?

**ADDISON SCHMITT:** No lighted sign. I'm making metal signs and I paint them.

**RON FALLOWFIELD:** Do you anticipate large trucks delivering material?

**ADDISON SCHMITT:** No.

**LARRY WILLIAMS:** How do you get your materials?

**ADDISON SCHMITT:** I have to take my trailer and go to the steel supplier.

**LARRY WILLIAMS:** Are you going to add any additional lighting?

**ADDISON SCHMITT:** No.

**RON FALLOWFIELD:** Will there be any late night work?

**ADDISON SCHMITT:** No sir.

**LARRY WILLIAMS:** Do you create a lot of noise?

**ADDISON SCHMITT:** No, I keep the doors closed. I'm respectful to my neighbors.

**KEITH SPURGEON:** Your application says you will have a sign for your shop. Will this sign be up next to the shop and not next to the road?

**ADDISON SCHMITT:** It will be on the barn next to the door.

**LARRY DROEGE:** Is it safe to assume that the majority of your work will be plasma cutting and welding?

**ADDISON SCHMITT:** Yes.

**LARRY WILLIAMS:** Any further questions from the Board? Is there anyone here that would like to speak for or against this application? Since no one came forward, we will close the public portion and open it to the Board for discussion.

Larry Williams confirmed with Mindy Bourne that there were no phone calls, emails or letters.

A motion was made in the affirmative by Ron Fallowfield to approve Special Use 21-05-SU-BZA. Motion was seconded by Larry Droege. The Special Use Voting Sheet was read. **Roll call vote (5-0) Yes. Motion carried.**

**MINDY BOURNE:** Your Special Use has been approved and you will receive a letter from our office. If you are placing a sign, you will need to get a permit from the Area Plan Office.

**SPECIAL USE:**

DOCKET NO: 21-06-SU-BZA

APPLICANT: Heath Rigsby

OWNER: Western Hills Country Club

PREMISES: Part of the Northwest of Section 7, Township 7 South, Range 13 West, in the City of Mt. Vernon, Black Township, Posey County, Indiana, containing 1.477 acres, more or less. More commonly known as 1711 Country Club Road, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use for a golf cart storage building in an R-1 (Residential Single-Family) Zoning District Section 153.042 (B) (3) Use Unit 4 Community Services and Similar Uses and 153.149 of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

**HEATH RIGSBY:** 1711 Country Club Road. I am the golf professional at Western Hills Country Club. We are requesting a Special Use for a new golf cart storage building. The growth of our membership over the last 18 months requires us to expand our golf cart fleet. Our current building will not house them. We will also expand our patio area.

**LARRY WILLIAMS:** Are you replacing that building or adding on?

**HEATH RIGSBY:** This is a new building and it will connect to the back patio. There will be a walk off at the back of the pool as well. I also have Charlie Nichol, K and M Construction, and Jonathan Lamar, Lamar Architecture and Design. If you have any building questions, you can direct them towards those two gentlemen.

**LARRY WILLIAMS:** You may have a seat. Is there anyone here wishing to speak for or against this proposal? Seeing none, we will close the public portion and open it to the Board for discussion.

Larry Williams confirmed with Mindy Bourne there were no phone calls, emails or letters.

**MARK SEIB:** I'm assuming the height of the building is the same as the rest?

**HEATH RIGSBY:** Yes.

**LARRY WILLIAMS:** How long will the construction take?

**HEATH RIGSBY:** About six weeks.

**KEITH SPURGEON:** Is the roof of this building being expanded with the patio?

**HEATH RIGSBY:** That is correct.

**LARRY DROEGE:** The current building they are using is basically a one car garage. They have outgrown this building. It is probably a much needed improvement to the property.

**LARRY WILLIAMS:** How many golf carts will this house?

**HEATH RIGSBY:** It will house up to 32 carts. The remainder of his statement was not audible.

A motion was made in the affirmative by Ron Fallowfield to approve Special Use 21-06-SU-BZA. Motion was seconded by Larry Droege. The Special Use Voting Sheet was read. **Roll call vote (5-0) Yes. Motion carried.**

**MINDY BOURNE:** Your Special Use has been approved. You will need to come by the Area Plan Office to obtain your Improvement Location Permit.

**SPECIAL USE & VARIANCE:**

DOCKET NO: 21-07-SU-BZA & 21-08-V-BZA

APPLICANT: Tillman Infrastructure/Andy Loeb

OWNER: Thomas R. & Tammy S. Schneider

PREMISES: A part of the Northeast Quarter of Section 11, Township 7 South, Range 14 West, lying in Black Township, Posey County, Indiana, containing a 75' x 75' leased area more or less. More commonly known as Highway 62 West, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use and a Variance to erect a cell tower in an A (Agricultural) Zoning District Section 153.032 (B) (3) Use Unit 3 – Public Protection and Utility Facilities Section 153.148 (B) (9) and 153.033 (C) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Larry Williams confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute.

**ANDY LOEB (VIA ZOOM):** 1080 Holcomb Bridge Road, Roswell, Georgia. I am applying on behalf of Tillman Infrastructure to install a new self-support telecommunications tower in the Southwest portion of the parcel on West Highway 62. On top of that, we need a Variance to build a 260' tower with a 10' lightning rod. That would be a total height of 270'.

**MARK SEIB:** How far is it from the highway?

**ANDY LOEB (VIA ZOOM):** It looks to be 91' 6".

**RON FALLOWFIELD:** Do you have State approval for the entrance off Highway 62?

**ANDY LOEB (VIA ZOOM):** I am not sure yet if we have the approval. I know that is the plan for the access road. I will follow up on that question.

**LARRY DROEGE:** I am looking at page 3 of 4 of the attached documents. Am I reading this correctly, it looks like there are three future lease areas? Does that mean there could potentially be four towers inside this fenced area?

**ANDY LOEB (VIA ZOOM):** No, it is a one tower with the ability to hold up to three carriers. Currently the highest point is reserved for AT&T. If you look at page C4 of the zoning drawings, you can see it is one tower and there is three areas for potential carriers. Again, the highest point is reserved for AT&T.

**LARRY DROEGE:** And they will share resources off that existing tower?

**ANDY LOEB (VIA ZOOM):** You mean the infrastructure they will be requiring?

**LARRY DROEGE:** I assume, yes.

**ANDY LOEB (VIA ZOOM):** If you look at two pages before C2, they have reserved future tenants spots in order to put their equipment on the ground level.

**LARRY WILLIAMS:** If there are no further questions from the Board, we will open this up to the public. Is there anyone here wishing to speak for or against this application?

**CRYSTAL WILDEMAN:** SBA Communications, 25 Riverside Drive, Evansville. SBA Communications has an existing tower that is on Weillbrenner Road. I am speaking on their behalf tonight because that tower is less than 2500' from the tower that is being proposed by Tillman. That information was not included in their application, so we wanted to make sure we could talk about that this evening. I appreciate the opportunity to address the Board. My client



learned of this request just a few days ago. My job tonight is to get more information about what Tillman's long term plans were and if this tower is necessary. I listened to Mr. Loeb's presentation and I've reviewed the application on file, but I don't know if there has been a showing of necessity for a tower. I think perhaps we should have some more questions about that. I brought a map with me and I have copies if you are interested. This shows the distance between the two towers. The Weilbrenner's tower is 252' tall. That is nearly 260' with the equipment. I just heard Mr. Loeb say the one they are proposing is going to be approximately 275' tall, 10' of which is a lightning rod. What we are trying to determine in evaluating the request, is whether it is necessary and what benefit it brings to the County. They mentioned AT&T. AT&T is on the Weilbrenner's tower currently. The tower Tillman is proposing... I tried doing some research before coming in here, on their website they have this tower they are asking to be approved as already in development and they have it listed as for AT&T as well. That was a surprise to us because AT&T has just renegotiated their lease for the next term as of July of last year. Unless you all were provided more information than what I was able to run down prior to the meeting, we're just asking whether Mr. Loeb and Tillman... They bear the burden to convince you and we think there needs to be a pretty darn good reason to have a tower of this size within such a short distance of an existing one. Please know that I am not expressing staunch opposition to the tower, it's just that we have questions and we don't understand the necessity. What we thought might be reasonable to do is to perhaps postpone this one so that we have the opportunity to get more information. I don't have the technical background to offer you information about whether it is going to increase capabilities, whether we are going to get better cell service because of this new tower. We did an initial study and the same 2.2 mile radius is going to be affected by this new tower. There are a lot of questions about that. In the short time that we have known about the plans, we've only been able to determine that the overlap might not necessarily increase anything better for the residence of Posey County. I was also able to figure out from Tillman's website that their first tower construction was in May of 2017. Again, I said their website is representing this one as already in development. SBA has been in business since 1989. The existing tower we are talking about has been there since 2002. If there are improvements to be made, or innovations to be made, we are all about that. I have a lot of family in Posey County and I couldn't stand up here and oppose that if that would bring a benefit to Posey County. Right now from the application filed and what we've been able to find out thus far, it is a concern to us... As your questions to us, if AT&T just wants to build their own tower so it doesn't have to negotiate leases or locate with existing towers. I think that should be a concern to you all. The other thing about the timing here is now that SBA knows that AT&T is seeking a new tower with Tillman, an opportunity of time would also allow us to maybe go back to the table with them to see if there is an opportunity to do some kind of negotiation as well.

**LARRY WILLIAMS:** I think you answered all of my questions.

**CRYSTAL WILDEMAN:** Would you like to see the map?

**LARRY WILLIAMS:** We will have to keep it.

**CRYSTAL WILDEMAN:** That is fine.

**LARRY WILLIAMS:** This is “Exhibit A – 2 pages”. I understand you to say your company has negotiated a new contract with AT&T?

**CRYSTAL WILDEMAN:** AT&T and SBA have been in contract for that tower for a very long time. It dates back to 2002. A recent amendment to that contract was just July of 2020.

**KEITH SPURGEON:** Do you have any other companies on your tower or is it just AT&T?

**CRYSTAL WILDEMAN:** I cannot answer that question. I would be glad to figure it out and get that information to you. I do know that our tower has the ability to collocate other carriers, I just can't state if there are other carriers on this tower.

**KEITH SPURGEON:** But your tower does have the capability of having more than one carrier, more than just AT&T?

**CRYSTAL WILDEMAN:** Yes, it absolutely does.

**LARRY DROEGE:** Is your existing SBA tower currently (inaudible) with other towers in the area? I guess the rational behind my question is... I guess towers have to be put up within a certain distance of each other to enable nondisruptive service? Are there other towers that you are using now that provide service along with the existing towers in the area?

**CRYSTAL WILDEMAN:** That is also something that I would have to find out for you.

**LARRY WILLIAMS:** Mr. Loeb, would you like to respond?

**ANDY LOEB:** Yes, I would. I can go in the order of what I heard. First, it is a total of 270', 260' for the tower with a 10' lightning rod. AT&T will not be owning the tower. Tillman Infrastructure will be owning the tower. Part of the application package was an AT&T letter of support. It has the AT&T logo on the top left. It specifically states that is running a high rent relocation program. AT&T has identified, and it specifically states that the site in Mt. Vernon, Indiana is economically burdensome. Then it says if AT&T is in a better position to invest in future technology and if the Tillman tower is approved they would use this tower. In telecommunication technologies they also have a contract with First Net which provides them with emergency response across the nation.

**LARRY DROEGE:** Do you have that information that you are speaking of from AT&T of the burdensomeness of the current tower?

**ANDY LOEB:** It was part of the application that I submitted. I can send it in again. It's dated

March 10, 2021 letter from AT&T's Director of Planning. It is an AT&T letter of support. It's basically just a proposed new tower on this specific parcel and detailing that certain sites have become too high cost for AT&T and that they need a newer site in order for them and to increase their investments in to the future.

**MINDY BOURNE:** I am trying to find the letter.

**ANDY LOEB:** F of the initial application if that helps. It is probably towards the back.

**LARRY WILLIAMS:** We have another exhibit. It will be "Exhibit B- 1 page".

**MARK SEIB:** Will the Tillman tower have internet on it or is it just strictly for phone?

**ANDY LOEB:** It will have both data and phone technology.

**MARK SEIB:** Will it have 5G?

**ANDY LOEB:** That will be part of the building permit construction drawings. As of right now, I'm not 100% sure what infrastructure AT&T will put on it. That is part of the reason why AT&T wants to transition to this site is because they want to be able to invest in future technologies.

**LARRY WILLIAMS:** Does the SBA tower currently have internet access?

**CRYSTAL WILDEMAN:** Yes.

**RON FALLOWFIELD:** We almost always have about a half dozen people protesting and they are not here tonight. But on the other hand, we don't want towers we don't need.

**MINDY BOURNE:** I'm not finding the AT&T letter in the paperwork.

**LARRY WILLIAMS:** I'm not opposed to waiting for information from both companies.

**LARRY DROEGE:** I agree with Larry. I would like to have a little more information because that is two towers that is awful close together. 2217' is not very much space.

A motion was made in the affirmative by Mark Seib to table Special Use 21-07-SU-BZA and Variance 21-08-V-BZA until the May 13 meeting. Motion was seconded by Ron Fallowfield. **Roll call vote (5-0) Yes. Motion carried.**

**ADDITIONAL BUSINESS:** None


**CITIZEN CONCERNS:** None

**ADJOURNMENT:** Ron Fallowfield made a motion to adjourn the meeting at 6:10 p.m. Larry Droege seconded the motion.



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Mr. Larry Williams, Chairman



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Mrs. Mindy Bourne, Executive Director