

**MINUTES**

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

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

**JULY 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, Mr. Trent Van Haften – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant

**MEMBERS ABSENT:** None

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

**VARIANCE:**

**DOCKET NO:** 21-11-V-BZA

**APPLICANT:** Chris Robison

**OWNER:** Christopher J. & Susan J. Robison

**PREMISES:** Lot number 5 in Mann and Barter Add to the City of Mt. Vernon of Section 8, Township 7 South, Range 13 West, lying in Black Township, Posey County Indiana. More commonly known as 1002 W. 2<sup>nd</sup> St., Mt. Vernon, Indiana. Containing 0.225 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 relaxation of street side yard setback from 25' to 11' and rear yard setback from 20' to 5' and lot coverage from 30% to 37% to build a 22' x 40' storage building in an RT (Residential Townhouse) Zoning District under Section 153.045 (B) (1) (a), (B) (3) (a) and 153.045 (D) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana

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

**CHRIS ROBISON:** 1002 W. Second Street, Mt. Vernon, Indiana. I would like to build a building on a pad I have behind my house that use to be a driveway. We have a boat and an

extra car that we have nowhere to park. We built a carport years ago and it is just full. We need another place to put the boat and another vehicle and hope to put a little workshop in the back.

**LARRY DROEGE:** Will there be a garage door along the short end of the building?

**CHRIS ROBISON:** It will be on the east side of the building.

**LARRY DROEGE:** Is there already a cut in the sidewalk for the driveway?

**CHRIS ROBISON:** There isn't a sidewalk there. It has been covered for years.

**KEITH SPURGEON:** The shop you are talking about putting in, it's just for your own personal use, correct?

**CHRIS ROBISON:** Yes.

**RON FALLOWFIELD:** You've cleared this with the utilities?

**CHRIS ROBISON:** Yes, I am good on that.

**LARRY DROEGE:** With exception of the front of the house, there is a perimeter fence. Are your plans to keep the fence and the building will be inside the fence?

**CHRIS ROBISON:** Yes.

**LARRY DROEGE:** The utility pole is right on the alley and there is not much room back there. That was my only concern is that is a tight area back there.

**CHRIS ROBISON:** We put that up in 2002 and we've not had any problems as far as the City picking up trash or anything like that.

**LARRY DROEGE:** So that 5' relaxation rule, the fence will still be inside...

**CHRIS ROBISON:** Yes, I will still be inside.

**LARRY DROEGE:** So the utility pole is inside of the fence. Does Vectren have a problem with the pole being inside of the fence?

**CHRIS ROBISON:** I've told them if there are any problems I will take the fence down. That has been a clear understanding with them.

**MARK SEIB:** Mindy, was there any easements that you found?

**MINDY BOURNE:** They have to provide them on their plot plan. He didn't present anything.

**MARK SEIB:** Usually when you have a utility that is going through there, you have some type of easement.

**CHRIS ROBISON:** I have a right away from the house to the alley. But I don't think they have anything on me.

**MARK SEIB:** Your new building is going to be on the southeast side of your property and will it be abutted to the alleyway?

**CHRIS ROBISON:** Yes.

**MARK SEIB:** Is there a lot of traffic that uses that alleyway?

**CHRIS ROBISON:** I'm on me, I'm not on the City. I'm inside the fence line.

**MARK SEIB:** I'm not worried about the fence line, I'm worried about your building blocking the view when you come to the intersection.

**CHRIS ROBISON:** The way the drawing is, the corner where the trash is there, there is a post there and some fence. So, you have to pull out kind of far to get around it. I'm going to remove that and I am going to open up at least 6' back and you should be able to see around that.

**LARRY WILLIAMS:** You may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application? With no one coming forward, we will close the public portion.

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

**LARRY WILLIAMS:** We will now open this application up to the Board for discussion.

**LARRY DROEGE:** I'm surprised that Centerpoint wouldn't have a problem with building a building... This building is probably going to be a few feet from that pole.

**CHRIS ROBISON:** It will be 6-7 feet from the pole.

**MARK SEIB:** Is the line from the pole running east and west? Is it an electric line?

**CHRIS ROBISON:** There isn't an electric line. The electric runs underground.

**MARK SEIB:** So what is the purpose of the pole?

**CHRIS ROBISON:** The pole is the cable line for WOW.

**MARK SEIB:** I just want to make sure we don't get you in any kind of issue with the utilities.

**LARRY DROEGE:** That is why I asked about the fence because the fence is close now to the alley. So if the trash people and others can use the alley now with the fence being that close.

**CHRIS ROBISON:** I'm going to open it up so there is more visibility.

**MARK SEIB:** Are we getting close on the lot coverage?

**MINDY BOURNE:** Yes, that was part of the Variance. He has a 30% lot coverage and he is going to be 37%. Keep in mind since there are three separate Variances here and we will have to take them up separately or they can be combined.

**ATTORNEY TRENT VAN HAAFTEN:** You can make a motion to combine into one consideration. If that motion passes then you can consider all three.

A motion was made in the affirmative by Keith Spurgeon to combine all three into one consideration. Motion was seconded by Mark Seib. **Roll call vote (5-0) Yes. Motion carried.**

A motion was made in the affirmative by Ron Fallowfield to approve Variance 21-11-V-BZA. Motion was seconded by Keith Spurgeon. The Variance Voting Sheet was read. **Roll call vote (5-0) Yes. Motion carried.**

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

**SPECIAL USE:**

DOCKET NO: 21-10-SU-BZA

APPLICANT: Derek Collins

OWNER: Poseyville Improvements LLC

PREMISES: Lot 3 in William's Third Addition, Section 19, Township 4 South, Range 12 West, lying in Robb Township, Town of Poseyville, Posey County, Indiana. More commonly known as 100 S. Sharp Street, Poseyville, Indiana. Containing 0.241 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use to build a garage for residential storage in an R-3 Zoning District Section 153.048 (B) (1) Use Unit 2 Area Wide Special Exception Uses, Section 153.147 (B) (14) Residential Storage Structure of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiaiana, 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.

**DEREK COLLINS:** 108 S. Cale Street, Poseyville. I am asking for a Special Use for a portable building, 16' x 44', on 100 S. Sharp Street.

**LARRY WILLIAMS:** Are there any questions from the Board?

**LARRY DROEGE:** Let me begin by saying before we get into the questions, you and your family have done a nice job of making improvements to the Town of Poseyville. Some of the properties you've acquired, you've made improvements. I do have some concerns with this application. I was a little surprised with the fact that when I drove to the location there is already a garage on that property with a rock driveway and landscape timbers around it. I'm a little bit frustrated that we are doing a permit but there is already... It says here to build a garage but you've already moved a garage onto the property. I'm a little frustrated that we are kind of going backwards here because the building is already sitting there.

**DEREK COLLINS:** I guess it was my fault, I didn't realize that you had to get a permit for a portable building. We originally bought the lot from Adam Hoehn. He bought the house to redo it but realized it needed to be torn down. He tore it down and then we bought the lot with intentions of eventually building a pole barn there or a duplex to rent out. We hauled in some dirt, I came across this portable building, and I figured I could put that in there for now. If I ever did want to build a duplex or pole barn there, I could just move it to one of our other properties. I would like to add onto my garage at 108 S. Cale, but the garage is currently on the property line. I figured instead of going that route and get a Variance for the... I mean it is directly on the property line. I figured I could do that back there and I wouldn't have to get a permit. So, I put the gravel driveway and the timbers around it and was going to haul more dirt in and have nice landscaping. I was then informed I would have to get a permit so I wasn't going to waste anymore time or money on it until it got approved or denied.

**LARRY WILLIAMS:** Is this building the only thing that is on that parcel?

**DEREK COLLINS:** Yes, there is also a small concrete pad directly behind it where a yard barn was at. I have a photo packet of the surrounding area of the neighborhood if you would like to pass it around.

**LARRY WILLIAMS:** Anything you submit and bring up here will have to stay part of the record. This will be "Exhibit A" 9 pages. We will pass that around for the members to look at. Does Poseyville have anything in the ordinance on lots as to what can go on there?

**RON FALLOWFIELD:** No. Poseyville stayed with the original ordinance.

**LARRY WILLIAMS:** So, it allows a garage?

**RON FALLOWFIELD:** No. Not by itself.

**MARK SEIB:** Did you buy this from a company that built it for you? If you did, they would have known you needed to have a permit.

**DEREK COLLINS:** I purchased this as a used building from Aaron Wilson after he sold his house. I picked it up with our wrecker and I got a trailer and put it there.

**LARRY WILLIAMS:** So just so I understand, you have a building that was put up before you had a permit on a piece of property that the ordinance says is not allowed to be there.

**DEREK COLLINS:** Yes, I did not check into that. So, yes, I guess that is correct.

**MINDY BOURNE:** I will give this group a little bit of history. A complaint was filed on this property. The complaint goes before the Area Plan Commission. After I receive a complaint, I send a letter. After he received the letter, he contacted the office and told me he wasn't aware he had to get a permit. I told him what he would need to do and that it wasn't something that you get a permit for and that it would require a Special Use. The property was vacant. There is not a principal structure on the site.

**LARRY WILLIAMS:** Is that what is required in Poseyville?

**MINDY BOURNE:** A structure like this is considered an accessory structure. So, you cannot place it on a piece of property unless there is a house there, unless you go through a Special Use.

**LARRY WILLIAMS:** You may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application?

**MITCH WAGNER:** 98 S. Cale Street, Poseyville. I wanted to question the shed being put there because I understood that if a property has a house on it and the house is tore down, then the only thing that can go back on that property would be a house. I had heard that they had purchased this property and put a garage on there. The value of people's homes are valued by what is around it. I've heard time and time again people in Poseyville say that we need people to come in to Poseyville to make the town grow. Large lots like that in Poseyville are hard to find. Not that I'm going to build a house. I've been at mine for 35 years. I'm not planning on doing nothing. As far as him having the garage, he should have to file for a permit like others that have had to get a permit for putting up a carport or putting sides on a carport. We all have to do it the right way. A lot like that... I heard that Habitat for Humanity was in Poseyville a couple of weeks ago trying to find a lot to possibly build a house. This lot has water, gas, electricity, sewage. That is half the battle for people building a house. As far as a garage for personal stuff, I'm not against it. I just don't think it needs to be on that lot. I feel the lot should be opened up for someone to build a house.

**LARRY WILLIAMS:** Is there anyone else that would like to speak? With no one coming forward, we will close the public portion and open this application to the Board for discussion.

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

**MINDY BOURNE:** And I will state that this is a residential storage structure. It would have to be for residential use.

**RON FALLOWFIELD:** I know there were two or three people that wouldn't sign a complaint that did complain.

**LARRY DROEGE:** Just a couple of points. I know the location that it is sitting on the lot would eliminate any chance of a home being built. The way it is physically located on the lot, there wouldn't be enough room to build on either side. I share the concern that we need to protect the residents of Poseyville. I do hear that it would be nice if there were more places to buy or more places to build in Poseyville. There really isn't. There isn't a lot of lots. We are kind of landlocked with farm ground. There isn't a lot of room for expansion. I think the ordinance the town has in place that requires a home to be on that lot is a good ordinance for Poseyville. It may not be for everywhere, but I think it is good for Poseyville. I tend to agree with the fact that we need to have houses on lots before we put buildings on for further uses.

**KEITH SPURGEON:** Just for clarification, is that ordinance unique to Poseyville?

**RON FALLOWFIELD:** No.

**MINDY BOURNE:** It is a Special Use. Mt. Vernon initiated the amendment to the ordinance.

**LARRY WILLIAMS:** Ours was a little different because we had all of those houses that were torn down and some of those lots were not large enough to put houses on according to the current ordinance. So they opened it up so that pole barns and things like that could be put on the property. It's a little different circumstances down here than what it was in Poseyville.

**MARK SEIB:** I share the same feelings. I also talked with the Town Council President and I asked if they had any intention on changing this and allowing anything like a shed, portable garage or anything to be on property without a home being on it. The answer was no. So they don't have any intention at this point, but it doesn't mean they won't in the future. Right now they don't have any intention of changing that. They said they really don't want that. They want homes. It is also a concern for me that there's not a permit and it is already there.

**RON FALLOWFIELD:** If there was a house there, this structure would need to be in the back yard and it is out by the street.

**KEITH SPURGEON:** And I share that concern that the garage is already there. And I guess in the interest of full disclosure, you all know that I applied for a Special Use for a lot here in town and did the same thing. I put a pole barn on a lot for storage. But this is a little different as in the lot is a lot smaller. No one asked us to, but we did put our pole barn at the rear of the lot. It still would be possible to build small house in front of it. I share the concern that the garage is already there before the process got started. I got my permit before I even purchased the lot. I made sure I had permission to build before I even got the lot. Knowing that Poseyville has a different view about putting a pole barn on lots than Mt. Vernon, that enters into it also.

**LARRY DROEGE:** I did spend some time this week kind of canvassing the city. I did live in Poseyville, but now I live right outside of town. I tried to look for a precedence where we had allowed that and I did not find another case where a building sat on a lot without a house on it in town. It is a small town so it is not terribly difficult to get around town and see.

**RON FALLOWFIELD:** The closest thing to it would be a pole building that has been recently built, but there is an apartment in the front of that.

**MARK SEIB:** Yes, that was granted because he was putting in an apartment for his mother to live in. That is why it was able to go through.

**KEITH SPURGEON:** Yes, that was kind of the difference between this one and the one I put up too. Mine wasn't the first in Mt. Vernon. That is where I got the idea, driving around Mt. Vernon. I saw lots with pole barns on them within the city and it was not far from where I live.

A motion was made in the affirmative by Mark Seib to approve Special Use 21-10-SU-BZA. Motion was seconded by Ron Fallowfield. The Special Use Voting Sheet was read. **Roll call vote (0-5) No. Motion failed.**

**LARRY WILLIAMS:** This Special Use has been denied.

**DEREK COLLINS:** I have a few things I would like to state. This is a portable building and the property values... I can see that diminishing property values may be, but the property directly behind it, which is zoned Commercial... I can't remember what name it is under, but it is the old mill. It is falling down and all that stuff. I would think that would be more of a concern than a building that can be moved anytime it needs to be moved. Also, about the property being used for a home or a house being built on, it sat for sale for months and there were several neighbors that were interested in buying it and they didn't want to pay for it. And then now we have been approached by anybody on any of the vacant lots in Poseyville about buying the lot to build a house. That was my negligence of not knowing about having to have a permit to put a portable building on it.

**LARRY WILLIAMS:** I'm not familiar with what you have done. From listening to Mr. Droege, you have done a lot of good things up there. I would just remind you that any time you



are dealing with property, putting in buildings or moving buildings or anything, place a phone call to the Area Plan office. That is much needed. So, saying I didn't know...

**DEREK COLLINS:** I understand that is not an excuse.

**LARRY WILLIAMS:** Yes, it is not an excuse. But, unfortunately it has already been done and voted on.

**DEREK COLLINS:** That's fine. I have one other question. Since I assume I have to move this building, if it is moved to a Commercial zoned property that has a permanent garage on it with a concrete pad already there, would that be allowed?

**MINDY BOURNE:** It depends on what it is being used for.

**DEREK COLLINS:** It would be used for residential still obviously, since it is just catty corner from that property.

**MINDY BOURNE:** In commercial zones, depending upon the size of it, commercial zones sometimes require a site review before it could be placed.

**DEREK COLLINS:** Because there is, I really don't know why it is zoned commercial, but there is a mobile home and a garage currently on that property that I'm talking about. I can't remember the address, but it is on the corner of St. Francis & Dean.

**LARRY WILLIAMS:** It may have been there before the zoning went into effect.

**DEREK COLLINS:** Because there was a mobile home on that concrete pad. The previous owners have moved out over the years, but the pad is still there, with the utilities and everything running to it.

**LARRY WILLIAMS:** The best thing to do, I mean obviously, you are going to have to move it, find out the property where you are going to move it, then come into Mindy and talk about where it's going to be and what you need to do.

**MINDY BOURNE:** I need the address so I can look up the zoning. And I need to look at specifically, what's on the property already and what you plan on using this building for.

**DEREK COLLINS:** How long of a time or grace period would I have before I have to move it?

**LARRY WILLIAMS:** I was just about to ask that. Do we have the authority to tell him to remove that?

**ATTORNEY TRENT VAN HAAFTEN:** All you have the authority to do at this point is to either grant or deny the request for Special Use. This is the Board of Zoning Appeals. They are responsible for certain things under the zoning ordinance. Special Use is one of them. The Area Plan Commission is the other body that deals with the zoning ordinance. They are the body that has to enforce the zoning ordinance. So, there was a complaint made, as you are aware of, on the building to the Area Plan. I believe that's on tonight's agenda of the Area Plan Commission meeting. That will be something that they take up. Then they will make a decision on how to proceed. At that point in time, the Area Plan Commission may say that this building is in violation and ask that it be moved within "X" number of days. I don't know if you were planning on staying around for the Area Plan Commission meeting, because of the complaint, but my suggestion would be to address that board and discuss with them what you think it would take, the amount of time you think it would take to move that structure. Then see what the APC decides to do. What they could do, is they could tell me, as the attorney, to file an ordinance violation tomorrow. What they commonly do, is work with the individual, if the individual is going to try to come into compliance, and work with them. So, they could say that you have 30 days, 60 days, or whatever it may be to move it. Then, if it's not moved, that's when they get a little out of sorts and say let's move towards filing an ordinance violation.

**DEREK COLLINS:** And then from the Area Plan, does it go to the Commissioners then?

**ATTORNEY TRENT VAN HAAFTEN:** No, by being denied here, you cannot file for Special Use on that site for another year. You do have under the zoning ordinance, the right to appeal to a court for the decision of the Board of Zoning Appeals. But that involves getting involved in the court system. When things go to the Commissioners, it's usually a rezoning and things of that nature and not a Special Use.

**RON FALLOWFIELD:** One thing I want to say on record, and I think you talked about it, is yes, there are places in Poseyville that ought to be torn down, but the money is not there to do it. It's already there and they can't force it to happen. But look at the Quonset Hut. That was a wonderful run business. Whenever Pee Wee died, the next owner let it go to crap. That's the same thing that can happen with this if we start allowing... I'm not on the board, but if we allow just garages and things like that, the next owner may let it go downhill. That's my personal opinion.

**LARRY WILLIAMS:** The other thing to remember is that there may be other properties that may be in violation, but we only act on complaints. We don't go out and look for them. If someone complains, then we will deal with it at that time. The same thing with the Area Plan.

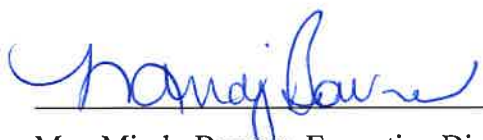
**ADDITIONAL BUSINESS:** None

**CITIZEN CONCERNS:** None

**ADJOURNMENT:** Ron Fallowfield made a motion to adjourn the meeting at 5:50 p.m. Mark Seib seconded the motion.



Mr. Larry Williams, Chairman



Mrs. Mindy Bourne, Executive Director