

MINUTES

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

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

**SEPTEMBER 9, 2021
5:00 P.M.**

MEMBERS PRESENT: Mr. Larry Williams-Chairperson, Mr. Ron Fallowfield-Vice Chairperson, Mr. Larry Droege, Mr. Trent Van Haften – Attorney, Mrs. Mindy Bourne – Executive Director, and Mrs. Becky Wolfe – Administrative Assistant

MEMBERS ABSENT: Mr. Mark Seib and Dr. Keith Spurgeon

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 Larry Droege. **Motion carried.**

APPROVAL OF MINUTES FOR THE EXECUTIVE SESSION: Larry Droege made a motion in the affirmative to approve the minutes of the executive session as emailed. Motion seconded by Ron Fallowfield. **Motion carried.**

SPECIAL USE:

DOCKET NO: 21-12-SU-BZA

APPLICANT: Zachary Will

OWNER: Zachary S. & Sarah K. Will

PREMISES: Lot 1 in Will Manor Exempt Division II Section 2, Township 5 South, Range 12 West, lying in Robinson Township, Posey County, Indiana. More commonly known as 10801 Baseline Road, Poseyville, Indiana. Containing 2.00 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 operate a home occupation (firearm sales in home business) 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.

ZACHARY WILL: 10801 Baseline Road.

ATTORNEY BETH MCFADIN HIGGINS: Before we start, let me make sure the applicant is aware this is a five-member board. Approvals or any action, while they can take action with three members present because that is a quorum, the statute requires a majority of the full board to vote one way or another to pass or decline something. So, when there are three people here, we just always like to let the applicant know that as you present your case today then there are three members here so in order to be favorable, all three members would have to vote in favor of the Special Use. If you would prefer this to be heard when all five members are present, still it would be three of five, you are more than welcome to request a continuance and that would be granted due to the numbers. It is up to you, you can go ahead and present. I just wanted to let you know before you start.

ZACHARY WILL: That is fine.

LARRY WILLIAMS: If this is turned down, he would have to wait a year, am I right?

ATTORNEY BETH MCFADIN HIGGINS: Correct. If it is denied, then you cannot refile for one year.

ZACHARY WILL: Ok. That is fine. I am looking to get my federal firearms license to be able to do firearms transfers sales through my home. I found out I would have to do a special variance to be able to do that.

LARRY WILLIAMS: So, you don't have your firearms license yet? You have to get this first?

ZACHARY WILL: Right.

MINDY BOURNE: The ATF always contacts us to check the zoning.

LARRY DROEGE: Zach, can you talk a little bit about your firearm experience?

ZACHARY WILL: I've been shooting since I was little. I coach the North Posey track team and I shoot in the NRL 22 league and I'm looking to do this to kind of help those teams as well as increase personal revenue and doing these transfers and stuff. One of my big things is for the kids so I can purchase shells. It is hard to find ammo right now. We had a hard time finding stuff like that. I'm just doing it to try and help the community, help my kids...

LARRY WILLIAMS: Will you be selling to the public?

ZACHARY WILL: Yes.

LARRY WILLIAMS: How much traffic are you expecting?

ZACHARY WILL: I'm not going to push it hard. At first I'm mainly going to put it out there mainly for online sales. I don't plan on doing inventory in-house. Mostly it will be shipped in UPS or Fed Ex. The stuff will come to me. I don't expect a large volume. I would say minimal traffic, besides deliveries.

LARRY WILLIAMS: Will there be any signage or anything?

ZACHARY WILL: I don't plan on advertising at the property.

LARRY DROEGE: Are you going to use your... the business will be in your existing home or do you have a garage you will have it in?

ZACHARY WILL: It will be in my existing home. The plan is that I will have a safe brought in and put in my 11 x 11 office. That is where the guns and ammo will be stored.

LARRY WILLIAMS: Do you anticipate more ammo sales, gun sales, or any difference?

ZACHARY WILL: I anticipate more transfers where I will receive an online order and I will then transfer it to the person. I will do special orders for people as well.

RON FALLOWFIELD: Is the road ready for UPS, Fed Ex, multiple deliveries?

ZACHARY WILL: Yes.

LARRY WILLIAMS: Do they have plenty of room to turn around?

ZACHARY WILL: Yes, we have a large turn around area.

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.

RON FALLOWFIELD: Anything for the young people is wonderful in my opinion.

LARRY DROEGE: Yes, it is going for a good cause. I guess everything is contingent on Zach getting his license.

LARRY WILLIAMS: Yes. He has to be registered with the State as a retail merchant and all the other good stuff.

A motion was made in the affirmative by Larry Droege to approve Variance 21-12-SU-BZA

subject to Federal approval. Motion was seconded by Ron Fallowfield. The Special Use Voting Sheet was read. **Roll call vote (3-0) Yes. Motion carried.**

MINDY BOURNE: This application has been approved. You will receive a letter from our office stating it has been approved. I am sure the ATF will want a copy of that.

ADDITIONAL BUSINESS: Special Use Extension Docket #16-05-SU-BZA and 13-13-SU-BZA

LARRY WILLIAMS: This is the proposed fertilizer plant.

MINDY BOURNE: Yes, they have requested several extensions in the past. One Special Use was approved in 2013 and the other in 2016. There have been approved extensions three times. The most recent extension was on March 12, 2020, for an 18-month extension for the two Special Use permits. That carried it up to September 2021. They are requesting another 18-month extension for both of the Special Use permits which would extend them into March 2023.

LARRY WILLIAMS: Under normal circumstances I think we would be a little skeptical about that, but considering the fact that they have been dealing with Covid and other things, and they are actively working, I have no problem.

LARRY DROEGE: I was not a part of the committee at that time. Just to kind of bring me up to date, was it a Special Use to allow them to do surveying or site work in preparation for building the fertilizer plant?

MINDY BOURNE: The one in 2013 is for the actual fertilizer plant because they are zoned M-2, but a fertilizer plant is considered a Special Use in an M-2. They will still have to go through a Site Plan approval process with the APC before they start construction. The other Special Use that was done in 2016 was for a laydown area. It is actually across the road. It was for their equipment, materials and things like that.

A motion was made in the affirmative by Ron Fallowfield to approve an 18-month extension for Special Use 13-13-SU-BZA and 16-05-SU-BZA to expire March 2023. Motion was seconded by Larry Droegge. **Roll call vote (3-0) YES. Motion passed.**

CITIZEN CONCERNS: None

LARRY WILLIAMS: Next month we will have a bunch of Variances that will be time consuming. We are going to change the meeting time for the BZA to 6:30 pm in October.

ADJOURNMENT: Larry Droegge made a motion to adjourn the meeting at 5:25 p.m. Ron Fallowfield seconded the motion.



Mr. Larry Williams, Chairman



Mrs. Mindy Bourne, Executive Director

**POSEY COUNTY
SPECIAL USE VOTING SHEET**

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 21-12-566-BZA
Zachary Will

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

Yes - required - Larry Droege Section 15B.173

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

2. The proposed Special Use is essential or desirable to the public convenience and welfare.

Yes - using right way - Larry Droege

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

3. The proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

Nothing like this in area - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

4. Granting the proposed Special Use is consistent with the public interest/welfare and the Comprehensive Plan in regard to the location, size, use, that nature of intensity of the operation and the site layout with relation to existing or future traffic patterns.

Sounds like good place - no traffic issues - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

5. The proposed Special Use will constitute an environment of sustained desirability and stability.

Thought out business details - Larry Droege

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

6. The proposed Special Use is in conformity and in harmony with the goals and objectives of the Comprehensive Plan.

No issues - good solid area for business - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

7. Under the circumstances of the particular case, the proposed Special Use is detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity.

No-one room business - not heavily populated area - Ron Fallowfield

Inventory law - Larry Droege

Larry Droege	(<input checked="" type="checkbox"/>) YES* () NO	Keith Spurgeon	() YES* () NO	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES* () NO	Larry Williams	(<input checked="" type="checkbox"/>) YES* () NO	3	0
Mark Seib	() YES* () NO				

8. If the request is for a "Home Occupation" it meets the definitional requirements found in the applicable Zoning Ordinance.

Yes - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

9. The proposed Special Use will comply with regulations and the conditions specified in The Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County for such use and with stipulations and conditions made a part of the authorization granted by the Board.

Yes - he is fine - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) YES () NO*	Keith Spurgeon	() YES () NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) YES () NO*	Larry Williams	(<input checked="" type="checkbox"/>) YES () NO*	3	0
Mark Seib	() YES () NO*				

10. Conditions, limitations or temporary uses deemed necessary for the protection of the surrounding area in order to carry out the intent and purpose of the Zoning Ordinance of Posey County:

None Subject to Federal approval

*IF ANY ONE OF YOUR ANSWERS ABOVE IS FOLLOWED BY AN ASTERICK, UNDER THE STATUE YOU SHOULD DENY THE APPLICATION.

DECISION: It is therefore the decision of the Board that the Special Use:

is hereby granted _____ ()

is hereby denied _____ ()

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision. Adopted this 9th day of September, 20 21.