

MINUTES

**POSEY COUNTY
AREA PLAN COMMISSION
REGULAR MEETING**

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

**OCTOBER 14, 2021
6:00 P.M.**

MEMBERS PRESENT: Mr. Mark Seib – President, Mr. Mike Baehl, Mr. Andy Hoehn, Mr. Randy Owens, Dr. Keith Spurgeon, Mr. Trent Van Haften – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

MEMBERS ABSENT: Mr. Kevin Brown, Mr. Dave Pearce, Mr. Hans Schmitz and Mr. Randy Thornburg

MARK SEIB: We barely have a quorum. Steve Noelle, you can choose to delay until next month or you can move ahead. The only stipulation is the vote has to be a unanimous.

STEVE NOELLE: I would like to go ahead this evening.

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

APPROVAL OF SEPTEMBER 13, 2021 MEETING MINUTES: Mike Baehl made a motion in the affirmative to approve the minutes of the September 13, 2021 meeting as emailed. Motion seconded by Keith Spurgeon. **Motion carried.**

REPLAT:

DOCKET NO: 21-05-S-APC
APPLICANT: Steve Noelle
OWNER: James & Kathy Petrig
PREMISES: Part of the Northeast Quarter of the Southwest Quarter of Section 23, Township 5 South, Range 12 West, lying in Robinson Township, Posey County, Indiana. More commonly known as 10301 Damm Road, Wadesville, Indiana. Containing 2 acres more or less. (Complete legal Description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Petition to replat property in an R-1 (Residential Single-Family) Zoning District under the Subdivision Control Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. Mark Seib asked if there were any conflicts of interest. Hearing none, he asked if anyone was here to speak regarding this request.

STEVE NOELLE: 3001 Blackburn Road, Mt. Vernon. The Petrigs have a 4.9 acre lot on Damm Road. They would like to cut out a two-acre parcel on the south end of the lot for a building.

MARK SEIB: This is a Minor Subdivision, correct?

STEVE NOELLE: Yes.

MINDY BOURNE: There was a Subdivision Committee Review Meeting held on September 30, 2021, at 9:30 am. You have the report in your folder. They want to divide two acres for their child to build a home. The property has been rezoned to R-1. The property has to be platted as a Minor Subdivision due to the Exempt II being maxed out in allowable lots. The lot will be accessed off Damm Road. Rule 5 is not required. No comments from jurisdictions that were notified. The Committee recommends this Minor Subdivision be approved.

MARK SEIB: Steve, you may have a seat. We will open the public portion. Is there anyone here wishing to speak for or against this proposed Minor Subdivision? Seeing and hearing none, we will close the public portion and it is now up to the committee to discuss and take action as they see fit.

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

A motion was made in the affirmative by Andy Hoehn and seconded by Mike Baehl to approve 21-05-S-APC. Roll call vote (5-0) **Yes. Motion carried.**

MINDY BOURNE: I want to add that 30 days has to lapse for final approval. They then have the option of coming back before the board or I can sign off on the final.

An amended motion was made in the affirmative by Andy Hoehn and seconded by Mike Baehl to send for preliminary approval and final approval. Mindy has authority to sign after 30 days. Roll call vote (5-0) **Yes. Motion carried.**

REPLAT:

DOCKET NO: 21-06-S-APC
APPLICANT: Steve Noelle

OWNER: Jim & Louise Winternheimer
PREMISES: Part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as 10325 Middle Mt. Vernon Road, Mt. Vernon, Indiana. Containing 1 acre more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Petition to replat property in an R-1 (Residential Single-Family) Zoning District under the Subdivision Control Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. Mark Seib asked if there were any conflicts of interest. Hearing none, he asked if anyone was here to speak regarding this request.

STEVE NOELLE: 3001 Blackburn Road, Mt. Vernon. The Winternheimers own a five-acre parcel on Middle Mt. Vernon Road. They want to cut out a one-acre piece around an existing house to separate from the rest of the property.

MARK SEIB: What is the rest of the property zoned?

MINDY BOURNE: It is Ag. They can do the rest of the property as an Exempt Division because this property has never been divided. They were proposing less than two-acres for this parcel... In an Exempt you have to have at least two-acres. Since they were proposing less than two-acres, it has to go as a Minor Subdivision.

MARK SEIB: Are they wanting to sell this one-acre lot later?

STEVE NOELLE: Right now they are renting the house. They really don't have a definite plans. The septic is on that one acre.

MARK SEIB: Steve, you may have a seat. We will open the public portion. Is there anyone here wishing to speak for or against this proposed Minor Subdivision? Seeing and hearing none, we will close the public portion and it is now up to the committee to discuss and take action as they see fit.

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

MINDY BOURNE: There was a Subdivision Committee Review Meeting held on September 30, 2021, at 9:30 am. You have the report in your folder. The Winternheimers have a five-acre parcel with an existing home. The owner wants to divide an acre off with the existing home to potentially sell the home. The remaining acreage will be four acres. Rule 5 is not required. No comments from jurisdictions that

were notified. The Committee recommends this Minor Subdivision be approved.

MARK SEIB: Now, we will open it up to the board for any discussion or action.

A motion was made in the affirmative by Andy Hoehn and seconded by Mike Baehl to send for preliminary approval and final approval. Mindy has authority to sign after 30 days. Roll call vote (5-0) **Yes. Motion carried.**

COMPLAINT: 621 E. 10th Street, Mt. Vernon, IN

ATTORNEY TRENT VAN HAAFTEN: This is the one we filed an ordinance violation on. This is Kristy Hogan. Her and her husband did appear in court. We had a discussion with them and they have moved a lot of things. I noticed that just by walking by there one day. We have asked them to show up at the November meeting since they have not bothered to come to another meeting previous to this. We continued the hearing on the ordinance violation until after that meeting so you can address them directly.

MINDY BOURNE: We do have some up-to-date photos that I have provided to the board members in your folders. Everything is on the street. The photos were dated October 3, 2021.

MARK SEIB: So now, everything is either on the street or the driveway... on concrete.

ATTORNEY TRENT VAN HAAFTEN: These things, in terms of the enforcement, I've taken the approach if they haven't shown up or appeared before you at a meeting, give them that direction to do that and see if there has been any change before asking a judge to set a date for a trial. Trying to save some time and expensive and see if we can get them into compliance.

ANDY HOEHN: It looks like compliance is as simple as not parking in your front yard.

ATTORNEY TRENT VAN HAAFTEN: Another thing, if they would have just shown up for a meeting. The excuse we got was we didn't get the notice. We found it later in the yard or something of that nature. It is not an uncommon response. I think one thing that is helpful, when you finally get them to show up at court that seems to make a difference.

MARK SEIB: If nothing else, let's move on to the next complaint.

COMPLAINT: 315 Pearl Street, Mt. Vernon, IN

ATTORNEY TRENT VAN HAAFTEN: This is the one on the fencing. We have received a couple of complaint letters saying it is different types of fencing. In the past, I know I have discussed with you that when you have a landlord-tenant situation, whether

or not we can take action against the landlord. I looked at the Ordinance again and the initial notice we sent out was specifically sent to the owner of the property. So on this one I filed the ordinance violation against both the owner of the property and the tenant. It is set for an initial hearing on October 25. When I drove by a couple of days ago, it appeared there is a different type of fence that has been put up. I don't believe they got a permit for it or that it is an actual type of fence that would meet the Ordinance. It appears they have done something. But we are set for a hearing on October 25. I will probably approach it the same way in terms of just telling them that if they want to show up at the November meeting and face the heat from you guys, then we will take it from there.

MINDY BOURNE: We did go by there and take pictures. There is still some of the white fencing and it looks like they just moved it to different locations.

ANDY HOEHN: I'm still getting emails and phone calls from neighbors saying the same thing.

RANDY OWENS: But if the white fencing is not permanently attached...

ATTORNEY TRENT VAN HAAFTEN: The question is whether this is appropriate fencing. Also, if it is appropriate fencing, did they go through the proper steps to put that up.

MARK SEIB: It does look like they have cleaned up the yard.

ATTORNEY TRENT VAN HAAFTEN: We are due at 11:00 am on October 25.

EXECUTIVE COMMITTEE REPORT:

MARK SEIB: Whenever we had our last meeting, we were talking about a hydrologist. We ran across a gentleman, John Stofleth, who is a senior hydrologist. He is currently working for the State of Indiana on water issues on Highway 62. We asked if he would be interested in working for the Area Plan on the solar project and helping with Carrie Parmenter, who is our Soil and Water person, to review the reports and to give recommendations. We knew that there were some meetings coming up soon, so I asked the Executive Committee whether they approve of hiring John as a consultant before we could be before the full board of the Area Plan. He has agreed and Trent has reviewed the contracts and made a few changes. On behalf of the Executive Committee, I would like to ask the board to bless that decision to go ahead and hire the hydrologist on an as needed basis. It is not a year contract. His primary objective is when we get the final from them and Carrie has gone through it, is to review it to make sure everything is ok. The expense if paid by the solar company.

A motion was made in the affirmative by Andy Hoehn and seconded by Keith Spurgeon to hire Mr. Stofleth as the hydrologist on an as needed basis. Roll call vote (5-0) **Yes.**

Motion carried.

DIRECTOR'S REPORT:

MNDY BOURNE: I wanted to bring up 100 S. Sharp Street. This was the Special Use that was denied by the BZA. We gave him until October to remove the structure. Due to pending litigation, we can't act on that. Am I correct?

ATTORNEY TRENT VAN HAAFTEN: Yes. After that, Mr. Collins filed suit against the BZA in terms of whether or not it should have been denied by them. That is before the courts now. The filing of the lawsuit would stay any enforcement by the APC. If the court were to say the BZA's decision was improper, the court can send it back to the BZA or simply order that it is null and void. We would then have to address it at that time.

MINDY BOURNE: The budget has been approved by the Council. We got everything we asked for.

APPROVAL OF PAYROLL & BILLS: A motion was made in the affirmative by Keith Spurgeon and seconded by Andy Hoehn to approve payroll and bills. **Motion carried.**

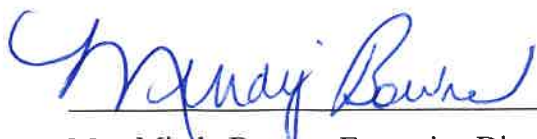
APPROVAL OF COLLECTIONS: A motion was made in the affirmative by Keith Spurgeon and seconded by Mike Baehl to approve collections. **Motion carried.**

CITIZENS CONCERNS: (None)

ADJOURNMENT: Mike Baehl made a motion to adjourn the meeting at 6:28 p.m. Motion was seconded by Andy Hoehn.



Mr. Mark Seib – President



Mrs. Mindy Bourne, Executive Director