

**MINUTES**

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

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

**NOVEMBER 18, 2021  
5:00 P.M.**

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

**MEMBERS ABSENT:** Larry Droege

**APPROVAL OF MINUTES FOR LAST REGULAR MEETING:** Larry Williams made an announcement that the minutes from the last meeting were not ready yet and should be available at the December meeting.

**SPECIAL USE:**

DOCKET NO: 21-13-SU-BZA

APPLICANT: Kathy Heck, Husk Signs

OWNER: First Federal Savings Bank

PREMISES: Part of the Northwest Quarter of the Northwest Quarter of Section 24, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as 11201 Upper Mt. Vernon Road, Evansville, Indiana. Containing .55 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 install an electronic message board, in a B-3 (Commercial High Intensity) Zoning District Section 153.166 (N) Use Unit 21 Business Signs and Outdoor Advertising 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, which they have not.

Mrs. Bourne went on to further elaborate that the inspector who takes pictures for the office to verify the placement of the poster, could not find it on the property. Our office did contact Kathy Heck and she said the poster was placed on 10/26/2021 and was taped to the west pole of the sign below the EMC area. Ms. Heck stated she knew the area around the property did not have

anything around to block wind, so she taped it with green filament tape to the top and bottom of sign that she keeps in her trunk. The applicant states it was posted, but there is no proof of it.

**ATTORNEY BETH MCFADIN HIGGINS:** The sign needs to be continuously posted for that period of time and according to the ordinance we have to have some proof. I believe most applicants take a picture themselves as proof.

**KATHY HECK:** Because the bank was closed and they were doing painting of the building, there was no windows available to place it there. I used the strongest and most visible tape that I had available at the time.

**MARK SEIB:** How long was the sign actually out before it was determined missing?

**KATHY HECK:** At least a month because it was the end of August.

**MARK SEIB:** Do you have any way of proving that?

**KATHY HECK:** No, I do not have any proof.

**MINDY BOURNE:** The other two statutory requirements were met which were the legal notice placed in the newspaper and letters to the adjoining property owners.

**ATTORNEY BETH MCFADIN HIGGINS:** We have to have all 3 requirements met. They do not have to refile, but they would need a new date on it.

**ATTORNEY BETH MCFADIN HIGGINS:** I would advise tabling any action this evening and for Ms. Heck to obtain a new sign from the Area Plan Office and ask someone from the bank to post it inside in a window where the weather cannot get to it. Then take a picture of it in the window as proof. If the ordinance does require it to be posted that way, then we really don't have a lot of choice.

**MINDY BOURNE:** Ms. Heck, the sign would need to be placed by November 28, 2021 to have met the requirements of the December 9<sup>th</sup> public hearing. You can pick up a new poster tomorrow or the first three days next week before Thanksgiving.

**ATTORNEY BETH MCFADIN HIGGINS:** Is there anyone in the public that had come to speak as a result of the notification in the newspaper concerning First Federal Savings Bank and the request to install an electronic message board. It was noted that no one came forward to speak on Docket No. 21-14-SU-BZA.

Ron Fallowfield made a motion to table Docket No. 21-14-SU-BZA until the next public hearing so all of the criteria could be met. Keith Spurgeon seconded the motion and a **Roll call vote was**

**carried out. (4-0) Yes. Motion carried.**

**KATHY HECK:** Do I need to send certified letters out to neighbors again?

**MINDY BOURNE:** All that you are required to do would be to obtain a new poster from the APC, post it and provide proof such as a picture to the office. You would also be required to be at the next meeting on December 9<sup>th</sup> at the same time.

**SPECIAL USE:**

DOCKET NO: 21-14-SU-BZA

APPLICANT: Adrian Miranda

OWNER: Main Street Rentals LLC

PREMISES: Williams 15' North Pt Lot 27 and 5' South Lot 30 Section 8, Township 7 South, Range 13 West, lying in Black Township, Posey County, Indiana. More commonly known as 225 N. Main Street, Mt. Vernon, Indiana. Containing .08 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 install a wall sign, in a CBD (Commercial Business District) Zoning District Section 153.166 (I) Use Unit 21 Business Signs and Outdoor Advertising 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. Mr. Williams asked the audience who was here to represent this application.

**ADRIEN MIRANDA:** I would like to mount a sign at the restaurant coming to 225 N. Main with a new sign similar in size to the one that used to be there. It would be a lighted sign with light behind each letter. It would not be a flashing light.

**LARRY WILLIAMS:** We will now open to the board for questions. When are you planning on opening the business?

**ADRIEN MIRANDA:** We hope to be open in the next three weeks.

**KEITH SPURGEON:** Will the light stay lit after hours?

**ADRIEN MIRANDA:** It would have a photocell to come on at dark and will stay light all night and shut off in the daytime, but will not be flashing.

**MARK SEIB:** Is there was a wattage in the ordinance that this sign would have to follow?

**MINDY BOURNE:** The reason for the Special Use request is the business is located in a Central Business District. Any sign being placed in a Central Business District has to come before the board per the Ordinance. It is not like an electronic message board so it does not need to meet the criteria for that.

**LARRY WILLIAMS:** Being no further questions, you may have a seat. We will now open to the public. Is there anyone here to speak for or against this project? No one. We will close the public portion.

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

**KEITH SPURGEON:** I have concerns with the light on the sign staying on all night.

**ATTORNEY BETH MCFADIN HIGGINS:** There is an apartment directly across the street in the upstairs portion of the building.

**MARK SEIB:** That is a legitimate concern.

**ATTORNEY BETH MCFADIN HIGGINS:** When the City redid the trail along Main Street, they installed new streetlights, which are very bright. She believed there were two in the immediate area, one in front of the restaurant and one in front of her office. The City installed them fairly close.

**RON FALLOWFIELD:** A light behind letters would not be too bright.

**LARRY WILLIAMS:** Did you state there was a timer on the sign?

Several board members responded on his behalf that there was no timer, just a photocell to tell night and day.

**LARRY WILIAMS:** This sign would not be much different from what I have at my business.

**MARK SEIB:** If this becomes an issue, would you be willing to do something different?

**ADRIEN MIRANDA:** Either I can install a timer or once we leave for the evening, which I expect to be around 9:30 PM, we could turn light off.

A motion was made in the affirmative by Ron Fallowfield to approve Special Use 21-14-SU-BZA. Mark Seib seconded motion. The Special Use Voting Sheet was read. **Roll call Vote (4-0) Yes. Motion carried.**

**MINDY BOURNE:** This application has been approved, you will receive a letter from our office on approval. You will need to come into our office for your Improvement Location Permit before you place the sign. The fee is \$25.

**VARIANCE:**

**DOCKET NO:** 21-76-V-BZA  
**APPLICANT:** Larry Strait  
**OWNER:** Larry & Lorrie Strait and Summer King  
**PREMISES:** Lot Number One (1) in Maplewood Addition to the City of Mt. Vernon, Indiana in Section 9, Township 7 South, Range 13 West, lying in Black Township, Posey County Indiana. More commonly known as 1136 E. Second St., Mt. Vernon, Indiana. Containing 0.1877 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 street side yard setback from 25' to 5' for construction of an 8' x 10' porch in an RT (Residential Townhouse) Zoning District under Section 153.045 (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.

**LARRY WILLIAMS:** Who is here to represent this application?

**LARRY STRAIT:** 1228 E Second St. My wife and I are building this porch on a home, which is located 34 feet from the street, and the porch will not extend any closer to the street than the footprint of the house. It is being designed to not take away from the home or the neighborhood. Many neighbors have commented as to how well we have taken care of the home and cleaning up the overgrowth on the lot and how they think the porch would be a nice addition.

I did have the County Surveyor out and we were unable to find the four corner surveyor stakes. I have had neighbors comment that there are not any surveyor stakes at that end of town, however there are at my house. I believe I have met all of the requirements such as the certified letters, legal notice in the paper and signage. This is the 4<sup>th</sup> house which my wife and I have improved for the better. They are always to code, structurally sound and much nicer

**MARK SEIB:** Will the porch stick out any farther than the structure of the house?

**LARRY STRAIT:** No.

**KEITH SPURGEON:** What is the home 34' from?

**LARRY STRAIT:** From the side street.

**MINDY BOURNE:** This was not 34' from the property line.

**LARRY WILLIAMS:** Being no further questions you may have a seat. We will not open the public portion. Anyone here to speak for or against this project? No one. We will close the public portion.

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

**LARRY WILLIAMS:** We will now open it to the board for discussion or any further action.

A motion was made in the affirmative by Mark Seib to approve Variance 21-76-V-BZA. Mark Seib seconded motion. The Variance Voting Sheet was read. **Roll call Vote (4-0) Yes. Motion carried.**

**MINDY BOURNE:** Your Variance has been approved. You will need to come into the office to obtain your Improvement Location Permit. The cost is \$25.

**ADDITIONAL BUSINESS:** Larry Williams informed the board there was a request for extension of Variance to Docket 20-16-V-BZA.

**MINDY BOURNE:** The original Variance motion was granted on December 10, 2020. The property owner was JJ Mohr and the Variance was for a placing a pool in the side yard. It was approved and now he is asking for an extension for the Variance that was previously approved. The contractor will not be able to begin work until September 2022, so he is asking for an extension until the end of 2022.

**MARK SEIB:** Were there any complaints on this docket when first approved?

**MINDY BOURNE:** There were no complaints.

A motion was made in the affirmative by Ron Fallowfield to approve a one-year extension on Variance 20-16-V-BZA. Keith Spurgeon seconded the motion. **Roll call Vote (4-0) Yes. Motion carried.**

**LARRY WILLIAMS:** Next one is a Special Use Extension, docket number 19-15-SU-BZA.

**MINDY BOURNE:** The owner, Jerry Chastain III, had been granted approval on 12/12/2019 for an Event Venue on Barter Rd and was granted a one-year extension on 12/2021. Now he is asking for another one-year extension.

**LARRY WILLIAMS:** What was the purpose of the first extension?

**JERRY CHASTAIN**: 1002 Darnell School Rd. December was going great. Conceptual design got approval. As we were moving through the final plan, COVID hit and world shut down in January. We decided to hold tight for a little bit and then things started to relax and lumber prices jumped sky high. The building went way over budget. Right now prices are starting to move down in lumber. So we are hoping to get this project moving within the year.

**RON FALLOWFIELD**: You are comfortable that you will build this?

**JERRY CHASTAIN**: Yes, as long as lumber doesn't shoot up again or something else happens that is out of our hands. There is only so much money that I can allot to that project. If it doesn't cash flow, then I couldn't build it.

**MARK SEIB**: You understand that we can't keep extending it year after year.

**JERRY CHASTAIN**: Yes, it is just this past year has been a crazy year.

**LARRY WILLIAMS**: We all understand that. I believe if we extend it one more time after that, you would need to make a new application if you decide to go forward with the project.

A motion was made in the affirmative by Ron Fallowfield to approve a one-year extension on Special Use, docket 19-15-SU-BZA. Mark Seib seconded the motion. **Roll call Vote (4-0) Yes. Motion carried.**

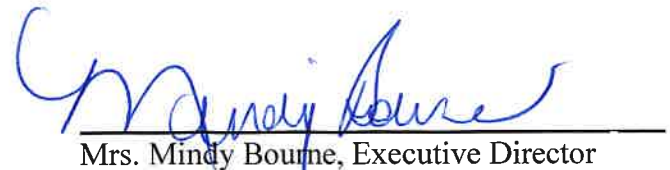
**CITIZEN CONCERNS**: None

**ADJOURNMENT**: Ron Fallowfield made a motion to adjourn the meeting at 5:38 p.m. Mark Seib seconded the motion.



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Mr. Larry Williams, Chairman



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Mrs. Mindy Bourne, Executive Director

**POSEY COUNTY  
SPECIAL USE VOTING SHEET**

Posey County Board of Zoning Appeals  
Report of Finding Fact

BZA NO: 21-14-50-BZA  
Adrian Miranda

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

*Yes - in CBD District - Ron Fallowfield*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) YES ( ) NO*				

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

*Put restaurant in need to let people know it is there - Larry Williams*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) 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.

*Very much needed for downtown area - Larry Williams*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) 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.

*Yes - Larry Williams*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) YES ( ) NO*				

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

*Yes - another business for downtown area - Ron Fallowfield*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) YES ( ) NO*				

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

*Yes - meets requirements of zoning Ordinance*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) 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.

*Done some nice improvements to building - Larry Williams*

Larry Droege	( ) YES* ( ) NO	Keith Spurgeon	( ) YES* ( <input checked="" type="checkbox"/> ) NO	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( ) YES* ( <input checked="" type="checkbox"/> ) NO	Larry Williams	( ) YES* ( <input checked="" type="checkbox"/> ) NO	0	4
Mark Seib	( ) YES* ( <input checked="" type="checkbox"/> ) NO				

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

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( ) YES ( ) NO*	Larry Williams	( ) YES ( ) NO*		
Mark Seib	( ) YES ( ) NO*				

*N/A*

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 - following rules - Larry Williams*

Larry Droege	( ) YES ( ) NO*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) YES ( ) NO*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) YES ( ) NO*	Larry Williams	( <input checked="" type="checkbox"/> ) YES ( ) NO*	4	0
Mark Seib	( <input checked="" type="checkbox"/> ) 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*

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\*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 18<sup>th</sup> day of November, 2021.

# VARIANCE VOTING SHEET

## POSEY COUNTY BOARD OF ZONING APPEALS Report of Findings of Fact

BZA NO: 21-76-V-BZA  
*Larry Strait*

1. Will the granting of this variance be injurious to the public health, safety, morals and general welfare to the community?

*No - staying within current confines of current structure Mark Seib*

Larry Droege	( ) NO	( <input checked="" type="checkbox"/> ) YES*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) NO	( ) YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) NO	( ) YES*	Larry Williams	( <input checked="" type="checkbox"/> ) NO	( ) YES*	0	4
Mark Seib	( <input checked="" type="checkbox"/> ) NO	( ) YES*					

2. Will the use or value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

*No - make his property worth more - Larry Williams*

Larry Droege	( ) NO	( ) YES*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) NO	( ) YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) NO	( ) YES*	Larry Williams	( <input checked="" type="checkbox"/> ) NO	( ) YES*	0	4
Mark Seib	( <input checked="" type="checkbox"/> ) NO	( ) YES*					

3. Does the need for this variance arise from conditions peculiar to the property included in the variance?

*Yes - setback - footage - Ron Fallowfield Footprint to house - Keith Spurgeon*

Larry Droege	( ) NO*	( ) YES	Keith Spurgeon	( ) NO*	( <input checked="" type="checkbox"/> ) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( ) NO*	( <input checked="" type="checkbox"/> ) YES	Larry Williams	( ) NO*	( <input checked="" type="checkbox"/> ) YES	4	0
Mark Seib	( ) NO*	( <input checked="" type="checkbox"/> ) YES					

4. Are these conditions general in the same zone?

*No - everything will be different - Mark Seib*

Larry Droege	( ) NO	( ) YES*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) NO	( ) YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) NO	( ) YES*	Larry Williams	( <input checked="" type="checkbox"/> ) NO	( ) YES*	0	4
Mark Seib	( <input checked="" type="checkbox"/> ) NO	( ) YES*					

5. Will the strict application of the applicable Ordinance constitute unusual and unnecessary hardship if applied to the property in question?

*Yes - would not be able to put porch on - Ron Fallowfield*

Larry Droege	( ) NO*	( ) YES	Keith Spurgeon	( ) NO*	( <input checked="" type="checkbox"/> ) YES	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( ) NO*	( <input checked="" type="checkbox"/> ) YES	Larry Williams	( ) NO*	( <input checked="" type="checkbox"/> ) YES	4	0
Mark Seib	( ) NO*	( <input checked="" type="checkbox"/> ) YES					

6. Will the granting of this variance interfere substantially with the comprehensive plan or materially increase street congestion?

*No - it is a porch - mark feib*

Larry Droege	( ) NO	( ) YES*	Keith Spurgeon	( <input checked="" type="checkbox"/> ) NO	( ) YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	( <input checked="" type="checkbox"/> ) NO	( ) YES*	Larry Williams	( <input checked="" type="checkbox"/> ) NO	( ) YES*	0	4
Mark Seib	( <input checked="" type="checkbox"/> ) NO	( ) YES*					

**\*If any one of your answers above is followed by an asterisk, under the statute you must deny the application.**

DECISION: It is therefore the decision of the Board, that the variance:

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 18th day of November

(date)