

MINUTES

POSEY COUNTY BOARD OF ZONING APPEALS REGULAR MEETING

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

JUNE 9, 2022
5:00 P.M.

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

MEMBERS ABSENT: Dr. Keith Spurgeon

APPROVAL OF MINUTES FOR LAST REGULAR MEETING: Mark Seib made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Larry Droege. **Roll Call Vote (4-0). Motion carried.**

VARIANCE:

DOCKET NO: 22-07-V-BZA
APPLICANT: Brad Miller
OWNER: Levi C. Miller
PREMISES: Lot No. 37 in Cales Enlargement to the Town of Poseyville, Indiana, EXCEPT There from 65 feet off the South side of said Lot 37 of Section 19, Township 4 South, Range 12 West, lying in Robb Township, Posey County Indiana. More commonly known as 63 E. Oak Street, Poseyville, Indiana. Containing 0.13 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 front yard setbacks from 25' to 11' to modify existing carport into living quarters in an R-3 (Residential Multiple-Family) Zoning District under Section 153.049 (B) (1) (a) of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mr. Williams confirmed no board members had any conflict of interest.

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

BRAD MILLER: 5201 Romaine Rd., New Harmony, IN. I am here speaking on behalf of my son and daughter-in-law, Levi and Sarah Miller. They recently purchased 63 E. Oak Street and they are wanting to modify the property to add a bedroom and bathroom. The property currently has an existing carport that is attached to the residence, the carport is under the residences roof. They propose to enclose that, add a bedroom and bathroom, which will increase the value of that property and will have a positive effect on the property surrounding it. They are not going to change the footprint, the footprint that is already there. They are just wanting to enclose a

carport that is already attached.

LARRY WILLIAMS: So they are not going to change the footprint.

BRAD MILLER: The current footprint is how it will remain. They are just going to enclose the carport that is attached to the residence.

RON FALLOWFIELD: I am glad you mentioned that it wasn't going to increase the space out.

BRAD MILLER: No they are not going to be moving any space. It is a non-conforming residence as it was built prior to zoning was put in place. So that is why we are here asking for the permit.

LARRY WILLIAMS: Any further questions from the board?

RON FALLOWFIELD: I will ask because I have a gas line under my garage. Is there a gas line under this?

BRAD MILLER: No the gas is accessed on the west side of the residence. The line from the town is actually from the north coming back south.

LARRY WILLIAMS: Any further questions?

RON FALLOWFIELD: The sewer line is back there also.

BRAD WILLIAMS: I assume. When we spoke with the town about what we were wanting to do, they did not have any concerns as to what we were doing.

RON FALLOWFIELD: As long as you talked to them then it should be alright.

LARRY WILLIAMS: Have a seat please. Are there any further questions or comments from the board. Hearing none, we will open the floor to the public comment, is there anyone who wishes to speak for or against this Variance. Hearing none we will close the public portion.

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

LARRY WILLIAMS: We will open to the board for further discussion or action.

RON FALLOWFIELD: That carport has been there probably fifty years. The lot is really covered but with him not expanding footprint, I personally think it will be alright.

BETH MCFADIN HIGGINS: Even though they are not expanding the footprint there you may be asking why they are asking for a Variance. They are changing the use. So as you know if there is a non-conforming use then unfortunately under the ordinance when it is non-conforming it is kind of locked in place. So anytime you change it you either have to bring it into conformance or if you can't bring it into conformance, just like this case, then you have to ask for a Variance. Then it will be an authorized Variance for that.

LARRY WILLIAMS: I am not familiar with the property. You currently have a carport there, so I assume it is part of the driveway. You are going to make the carport a part of the house, so what part is going to be left for driveway, or will it be on-street parking?

BRAD MILLER: There will still be room for a vehicle.

LARRY DROEGE: I should have asked you while you were up here, but is the carport going to be demolished or is part of it going to be used in construction.

BRAD MILLER: I believe most of it will be demolished and footers put in to be in compliance with current building requirements. Some of it may be reused.

LARRY WILLIAMS: Any further comments from the board?

MARK SEIB: As long as they stay within the same square footage of the carport, I don't think it would be a problem.

LARRY WILLIAMS: Any action?

Mark Seib made a motion in the affirmative to approve Docket # 22-07-V-BZA. Motion seconded by Ron Fallowfield. The Variance Voting Sheet was read. **Roll Call Vote (4-0) Yes. Motion carried.**

MINDY BOURNE: This Variance has been approved. You will need to come into the Area Plan Commission Office to get your Improvement Location Permit.

VARIANCE:

DOCKET NO: 22-08-V-BZA

APPLICANT: Alan Schelhorn

OWNER: Alan L. & Laura A. Schelhorn

PREMISES: Outlot 6B and Part of the East Half of the Southeast Quarter of Section 22, Township 6 South, Range 13 West, lying in Black Township, Posey County, Indiana. More commonly known as 3912 Valley View Drive, Mt. Vernon, Indiana. Containing 2.68 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 front yard setback from 25' to 8.6' and relaxation of rear yard setback from 25' to 21.2' (for existing accessory structure) for proposed Lot 6B and relaxation of front yard setback from 21' to 19' and relaxation of rear yard setback from 25' to 11.5' (for proposed home - existing structure) for proposed Lot 6C in an R-1 (Residential Single-Family) Zoning District under Section 153.043 (B)(1)(a) and 153.043 (B)(3)(a) under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mr. Williams confirmed no board members had any conflict of interest.

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

ATTORNEY BETH MCFADIN HIGGINS: For clarification, on the docket it has 22-08-V-BZA. I think it was read as 22-09-V-BZA. If we could just clarify the record on the actual docket case and make sure that is in the minutes. It is 22-08-V-BZA.

STEVE NOELLE: 3001 Blackburn Road, Mt. Vernon. I am representing Alan and Laura Schelhorn. They own this total 2.68 acre lot, which also includes the Outlot B of Blackford Lake Estates. On this lot is Alan's house, a cabinet shop and then another building, which Alan's daughter and son-in-law would like to remodel and move in to. In doing so, we would need to split this lot making the proposed house on a 1-acre lot and then Alan's on the remaining acreage. We are asking for relaxation of the front, side and rear setbacks.

ATTORNEY BETH MCFADIN HIGGINS: Is this actually a Replat as well?

MINDY BOURNE: Yes, this is going before the Plan Commission after this.

ATTORNEY BETH MCFADIN HIGGINS: So any discussion would be subject to approval because it would be a Replat.

MARK SEIB: Steve, is this a shared driveway? Is that where they are going through with the property line?

STEVE NOELLE: Yes, it is a shared driveway. The drive going up to the house varies on either side of the property lines.

MARK SEIB: I can see where you are talking about the setback for the side, front and back. I see where the property lines are between the two. Will that remain a shared driveway?

STEVE NOELLE: Yes.

RON FALLOWFIELD: With that being a shared drive... I know they are relation now, but shouldn't that be documented for future as a shared drive?

STEVE NOELLE: That or it should be, in my opinion, an easement for the driveway.

MARK SEIB: So the only one that is it going to affect is basically between the two of them. That drive does not extend onto any other property or anything such as that.

STEVE NOELLE: It is over on the Criswell property. The lighter line is over on the Criswell property showing on the drawing there.

LARRY DROEGE: Steve, the existing structure it talks about, is it going to be left with 8.6 feet as the shortest dimension due to the new property Replat?

STEVE NOELLE: Yes.

LARRY DROEGE: What is that building currently used for?

LAURA SCHELHORN: (from the audience) It was once my office and then the boys used it for a music studio. It has been empty for just a little while.

LARRY DROEGE: So it is more like a garage?

LAURA SCHELHORN: No, just like a square building.

LARRY WILLIAMS: I need you to come up to the microphone so we can get you on record please.

LAURA SCHELHORN: 3912 Valley View Drive. We had a building business and I had my office in there. They built it for me to have an office and then I decided to move it back into the house. The boys then took it over and my one youngest son had a recording studio in there.

LARRY WILLIAMS: Is that building going to stay?

LAURA SCHELHORN: Yes.

LARRY DROEGE: So that little building is the only structure that is going to be on the new property?

LAURA SCHELHORN: Yes. I think they would like to at one time put a small addition on to have a half bath. I think they want an entry room and a half bath because there is only one bathroom.

LARRY DROEGE: You don't see any issue with having an 8.5-foot boarder on one side and 11 on the other?

LAURA SCHELHORN: No.

MARK SEIB: Steve, where do the cars park? Is there a blind spot or anything that will create an issue with them parking and coming in and out between the two homes? I can't really see where the driveway is on the sketch.

STEVE NOELLE: There is a concrete drive and asphalt that goes up to Alan and Laura's garage. If I remember right, the asphalt does extend between the buildings. I believe right now it is gravel if I remember right. I don't see any problems as far as side distance.

MARK SEIB: There is always the future... once that is divided... it may stay in the family forever and that is fine. If it is ever sold to somebody else, is there an issue with someone else being able to park or back out without causing an issue. In your opinion, the way it is set up now, that would not be an issue?

STEVE NOELLE: No.

LARRY WILLIAMS: Any further questions from the board? With none, you may have a seat.

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

LARRY WILLIAMS: At this time, we will open this application up for public comment. Is there anyone here wishing to speak for or against this application?

KENNETH CRISWELL: 3910 Valley View Drive. We submitted a plat to the Area Plan Commission. The way my property runs, I go completely across that road, that driveway to the corner of Alan Schelhorn's drive. There is no easement for any residential houses back there for them to travel through there. There is no easement there for them to come up through there. It is a shared drive between me and Alan Schelhorn, not for no other residence. They have 12.5 feet between the corner of their building to my line back there. I backed in there one time and Mike had his truck sitting there and I couldn't get to my pole barn. I don't see granting one anytime soon. We consulted with two other realtors who advised us that having that residence there would put a negative impact on our property. We are going to sell to get out of this situation. It is just a matter of time. The parking is limited up there. If you do the reconstruction of it, it is just going to get worse.

LARRY WILLIAMS: Do you have a proposed resolution for it?

KENNETH CRISWELL: No, not to the reconstruction of it. When I bought that, I was told there would be no other residential back there.

LARRY WILLIAMS: I gather you are against this Variance?

KENNETH CRISWELL: I am. For Mr. Noelle to say they are not living there, they are living there now. It is more than just an office building; it is a residence right now. My understanding is you can't have two houses on one property in Posey County.

LARRY WILLIAMS: Any further questions for Mr. Criswell?

LARRY DROEGE: Your concern is the 13' 6" between your property line and that small music studio, or whatever. Is that correct, because of your property line being so close?

KENNETH CRISWELL: Yes. And the part where it joins Alan's driveway. I have one here in dark black if you all need to see it.

LARRY WILLIAMS: If you have something you want the board to see, we have to keep it.

KENNETH CRISWELL: That's fine with me. I have plenty of them.

MINDY BOURNE: This is Exhibit "A" one page.

MARK SEIB: So there isn't an easement for the driveway?

KENNETH CRISWELL: Not for another residence, no.

LARRY WILLIAMS: Do you have any other comments, sir?

KENNETH CRISWELL: Not at this time.

LARRY WILLIAMS: You may have a seat. Is there anyone else wishing to speak for or against this application? With no one coming forward, we will close the public portion and open this up to the board for discussion.

ATTORNEY BETH MCFADIN HIGGINS: Although this is not the Replat discussion, but when they get to the Replat, we can't Replat unless there is a dedicated easement. We can't intentionally land lock any lot.

LARRY WILLIAMS: So whatever we do is going to be contingent upon the Area Plan Replat.

ATTORNEY BETH MCFADIN HIGGINS: The easement has to be shown on the Replat. That is for the APC. When it comes up, they are not going to be able to approve anything unless there is something showing that every lot is going to have... you can't get access through another lot. It has to have an actual dedicated ingress and egress. The other thing I would say is what we would say with anybody who is in the subdivision, when there is a Variance request in a subdivision, just a reminder, we don't know... we don't get into restrictive covenants or anything that may be adopted by the subdivision, but nothing that we do here can override any kind of restrictive covenants that may be on record with regards to subdivisions. In other words, just because you have a Variance, if there is a restrictive covenant... I don't know if this particular subdivision has covenants and restrictions on record, but if so, if there are requirements within those, nothing that we do can override those.

LARRY DROEGE: Beth, is there any precedence for an easement being able to be transferred due to the sale of part of that property that went with the existing property? If a person decides to sell part of his property that the easement is affected by, is the easement transferrable?

ATTORNEY BETH MCFADIN HIGGINS: Normally, unless it is an exclusive easement, but most easements, as long as they are recorded, easement are what we call run with the land. An easement will be there unless it is vacated in writing and recorded. Otherwise, easements run with the land and continue unless the language in the original easement, it can be what we call an exclusive easement meaning it is just for this person or for this purpose. Otherwise, it is a general easement for ingress and egress, which would flow and follow the land. So if I buy it, I buy it subject to whatever that easement is.

LARRY DROEGE: So it seems like we need to know that information. Mr. Criswell maybe doesn't know for sure rather that was exclusive.

(from the audience – There are no easements and we have verified that)

MARK SEIB: Steve, I know when you do surveying and trying to divide, you do some research. Did you find anything, any easement of any type?

STEVE NOELLE: No, there is no easement.

MARK SEIB: Do they have a plan in order to provide for that?

STEVE NOELLE: Not that I know of. I'm not aware of anything.

RON FALLOWFIELD: The use of this driveway is a gentleman's agreement?

ATTORNEY BETH MCFADIN HIGGINS: You've heard there are no easements. I can't say.

RON FALLOWFIELD: That is what it sounds like.

ATTORNEY BETH MCFADIN HIGGINS: Sometimes just the way our meetings are set, BZA comes up first and then Area Plan Commission. Sometimes it is very difficult for this board to make any decision until they know whether or not it is going to be two lots granted. You can make decisions on your own or you can table it if you think you need more information from the Area Plan Commission if it is going to meet Replat requirements which is going to require dedicated access. That may make a difference about where the Variances are and how much you want to grant a Variance for.

LARRY WILLIAMS: Are there time constraints on this? Is this something that needs to be done right now? Would it be better to put this off and let Area Plan do their thing?

LAURA SCHELHORN: We just wanted the children to be down there to help us. We didn't ask the neighbors, but we told them to go ahead do what they wanted to. Christa has done a lot of work in there. That was the purpose. They were going to be there to help me especially. Mike has been doing the mowing for Alan.

CHRISTA SHORE: 3519 Orchard Road, Evansville, Indiana. I'm the daughter of Alan and Laura Schelhorn. Our idea was to be able to help them. Time restraint wise was just to help them to get around and keep their house clean and get groceries and things like that.

LARRY WILLIAMS: I think it would help us to make our decision if we found out what the Area Plan Commission is going to do. Maybe we can put this off until next month.

LARRY DROEGE: May I ask who put the driveway in?

CHRISTA SHORE: Alan Schelhorn. They owned the Criswell house.

LARRY DROEGE: Then Kenneth and Paula bought the property adjacent.

CHRISTA SHORE: Twenty years ago.

A motion was made in the affirmative by Ron Fallowfield to table this application until next month. Larry Droege seconded the motion. **Roll call vote (4-0) Yes. Motion carried.**

ATTORNEY BETH MCFADIN HIGGINS: So anyone here for this application, this has been tabled until next month, July 14, 2022, 5:00 p.m. in this room.

SPECIAL USE:

DOCKET NO: 22-04-SU-BZA

APPLICANT: Michael & Melinda Ward

OWNER: Thomas L. Austerman

PREMISES: A part of Section 1, Township 5 South, Range 14 West, lying in Harmony Township, Posey County, Indiana. Containing 35.2450 acres more or less.

More commonly known as 5271 Old Plank Road North, New Harmony, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests Special Use for a home occupation - lavender farm in an R-1 (Residential Single-Family) Zoning District. Section 153.042 (B)(4) 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.

Mr. Williams confirmed no board members had any conflict of interest.

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

LARRY WILLIAMS: Who is here to speak on behalf of this application?

TOM AUSTERMAN: 5271 Old Plank Road North, New Harmony. The use will be approximately one acre and it would be used for a lavender field. In addition to that, there would be about two acres of parking. I think you have a drawing of where the lavender field would be located. There is ingress and egress points with good visibility so the property can be safely entered or exited from either entrance. The property is fenced and gated for security. This would be a Home Occupation similar to the buyer's previous arrangement with their former property in Posey County. Mike Ward is here if you have any questions about the business. I've used the property for the last 20 plus years as a working horse farm. I have eight horses. I have given clinics there and I teach horsemanship to private parties. I've also harvested hay on two of the fields and a lot more than one acre. I've never harvested anything that smells as good as the lavender. In my opinion, given the nature of the surrounding area and close proximity to the New Harmony culture, we believe the Wards' use would be an improvement to the property.

RON FALLOWFIELD: You will come into the driveway and then where you have labeled parking...

MIKE WARD: 703 Arthur Street, New Harmony. Was there a question that you had?

RON FALLOWFIELD: You are showing an entrance and then you are showing parking that looks like in a grassy area. Is that where your proposed parking will be?

MIKE WARD: Yes.

MARK SEIB: On the grass?

MIKE WARD: Yes. We've been to several lavender farms and that is normally what you do is park on the grass.

MARK SEIB: Is this a year round operation for people to come and see?

MIKE WARD: No sir. The blooming time would be May to July, end of July maybe. That is a perennial and it stays in the field. It is like a shrub. Just during that time, we would have people

out to cut their own bundles of lavender, look at the field and whatever.

MARK SEIB: So you are only going to be in operation for basically three months.

MIKE WARD: Yes. There will be events that coincide with those dates, but they will be a little before or a little after.

MARK SEIB: What do you mean by events?

MIKE WARD: Well, people coming out is what I meant. Like a you pick.

MARK SEIB: You're not talking about having a stage, a band and having all of that kind of stuff? That is a different situation.

MIKE WARD: I understand. We will have a... there is a cabin on the property and we will have our lavender products in there for sale.

MARK SEIB: Year round?

MIKE WARD: It will be open those three months, but if somebody calls out and says we want to come out and get something. It's not going to be an open shop where we have hours.

LARRY WILLIAMS: Do you have any idea how much traffic you anticipate at one time?

MIKE WARD: That's what we do on vacations, we go to lavender farms. This area is not huge. I am going to say 50 cars maybe at the most in a day might come in. Not at one time.

LARRY WILLIAMS: How many cars can you park in that area you have on the...

MIKE WARD: We marked off 20; I mean two acres for parking. But I have 20 acres that I can park cars if I need to. There is a lot of parking there. We have two driveways in and out.

TOM AUSTERMAN: In addition to the driveway, there is also a gate at the corner of the property. There are two ways to get onto that particular piece of property.

LARRY DROEGE: Is your property fenced along Old Plank Road?

MIKE WARD: Yes.

LARRY DROEGE: So there is an existing fence between Old Plank Road and the proposed lavender field?

MIKE WARD: Yes.

LARRY DROEGE: No other plans to add fencing to enclose the lavender field at this time?

MIKE WARD: No. Maybe repairs to it. We have some posts that are falling down. Maybe replacing posts and maybe some painting. Just upkeep on the fence.

TOM AUSTERMAN: That fence has been there since 1961.

LARRY WILLIAMS: Do you know how many special events you are planning during the season?

MIKE WARD: That is hard to say. Like I said, it is just when the lavender is blooming. Maybe four, three, something like that.

MARK SEIB: And you're not going to keep regular hours at the cabin?

MIKE WARD: No sir. That is just when we have our events.

MARK SEIB: And you have no signage?

MIKE WARD: There will be a sign. A tasteful sign. We had a lavender field in Poseyville about two miles from where we are at now. Maybe three miles. Where we moved from, we had a lavender field. The sign was about like this. It's a smaller sign. There will not be a lighted sign.

LARRY WILLIAMS: Any additional questions from the board? With none, you may have a seat. We will open this application up to the public. Is there anyone here wishing to speak for or against this application?

NANCY DEFRIES: 5565 Maple Hill Road. If you have a plat of their property, you will see a lake. We share the lake half-and-half with the property the Austermans have. Over the 26 years or so we have had it I wish Tom was taking care of my land because his looks better than mine. My one question is... and we are so far from the back property on the lake from theirs it really wouldn't concern me, but I wonder if there were any plans for future expansion and other buildings to build the business or if they anticipated staying the same size that it is.

MIKE WARD: At this present time, we don't have any plans of building a large building or anything like that.

LARRY WILLIAMS: How far out does that extend? What if it takes off?

MIKE WARD: I can't answer that. I can't see in the future. If it is really popular, then we might expand the lavender field, you know go over an acre. Then we will be back in here if we are going to do something else.

LARRY WILLIAMS: Is there anybody else wishing to speak for or against this Special Use? Hearing none we will close the public portion.

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

LARRY WILLIAMS: We will now open this up to the board for discussion.

ATTORNEY BETH MCFADIN HIGGINS: Just as a reminder for the board and the applicants, Home Occupation can have no employees. Concerning Mr. Seib's question about sales of anything, the only thing that can be sold related to a Home Occupation is anything that is

raised or generated on the property. They wouldn't be able to bring in candles from other locations. Those are two restrictions under the Home Occupation. To keep it as a Home Occupation, it has some restrictions that go along with it. If you decide you want to grow the business, then you are probably looking at taking some other actions for either a Rezone or something like that.

LARRY WILLIAMS: On their sheet, it says number of employees including yourself is two.

ATTORNEY BETH MCFADIN HIGGINS: The people that live on the property can work there, but no one else can work in a Home Occupation. Only the people that reside. If you need clarification of that, you will have to ask the applicant.

RON FALLOWFIELD: Two employees. Are you talking about yourselves?

MIKE WARD: Yes and a couple of the kids.

RON FALLOWFIELD: So it is just family?

MIKE WARD: Yes and that is the way we ran the other business.

Larry Droege made a motion in the affirmative to approve Docket # 22-04-SU-BZA. Motion seconded by Ron Fallowfield. The Special Use Voting Sheet was read. **Roll Call Vote (4-0) Yes. Motion carried.**

MINDY BOURNE: This Special Use has been approved. You will get a letter from our office stating that it has been approved. You can just keep that in your file.

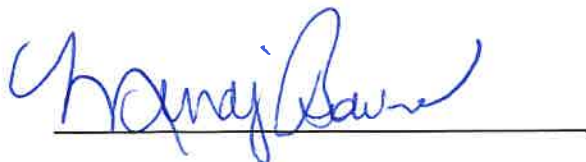
ADDITIONAL BUSINESS: None

CITIZENS CONCERNS: None

Ron Fallowfield made a motion to adjourn the meeting at 6:05 p.m. Larry Droege seconded the motion.



Mr. Larry Williams, Chairman



Mrs. Mindy Bourne, Executive Director

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 22-07-V-BZA

Brad Miller

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

No public comment, existing - not expanding footprint - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	() 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 property look better - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	() 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 - changing use - Ron Fallowfield

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	() 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, taking a carport and converting - Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) NO	() YES*	Keith Spurgeon	() 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 - small two bedroom house - Ron Fallowfield

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) YES	Keith Spurgeon	() NO*	() 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 - parking will stay - Ron Fallowfield footprint will stay Mark Seib

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

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 June 2022

(date)

POSEY COUNTY SPECIAL USE VOTING SHEET

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 22-04-BU-132A

Michael & Melinda Ward

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

Yes-home Occupation Section 153.042(0)(4) 153.173-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*	<u>4</u>	<u>0</u>
Mark Seib	(<input checked="" type="checkbox"/> YES () NO*				

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

Yes-Larry Williams desirable-8000 ft for community-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*	<u>4</u>	<u>0</u>
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.

desirable-spoke on #2-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*	<u>4</u>	<u>0</u>
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.

Will not generate enough traffic to hurt based on projections-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*	<u>4</u>	<u>0</u>
Mark Seib	(<input checked="" type="checkbox"/> YES () NO*				

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

Yes-country atmosphere-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*	<u>4</u>	<u>0</u>
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.

fits in good with community-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*	<u>4</u>	<u>0</u>
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.

rural area trees - Ron Fallowfield

Larry Droege () YES* (☒) NO
Ron Fallowfield () YES* (☒) NO
Mark Seib () YES* (☒) NO

Keith Spurgeon () YES* () NO
Larry Williams () YES* (☒) NO

YES NO
0 4

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

based on testimony - yes - Larry Droege

Larry Droege (☒) YES () NO*
Ron Fallowfield (☒) YES () NO*
Mark Seib (☒) YES () NO*

Keith Spurgeon () YES () NO*
Larry Williams (☒) YES () NO*

YES NO
4 0

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.

what we were told - yes - Ron Fallowfield

Larry Droege (☒) YES () NO*
Ron Fallowfield (☒) YES () NO*
Mark Seib (☒) YES () NO*

Keith Spurgeon () YES () NO*
Larry Williams (☒) YES () NO*

YES NO
4 0

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

*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 June, 2022.