

MINUTES

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

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

**OCTOBER 13, 2022
5:00 P.M.**

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

MEMBERS ABSENT: None

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

SPECIAL USE:

DOCKET NO: 22-11-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 for a yard barn 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 Cynthiana, Town of Poseyville and Unincorporated Posey County.

MINDY BOURNE: The applicant has requested that this be tabled until the November meeting.

Keith Spurgeon made a motion in the affirmative to table this application until the November 2022 meeting. Motion was seconded by Mark Seib. **Roll Call Vote (5-0) Yes. Motion carried.**

SPECIAL USE:

DOCKET NO: 22-12-SU-BZA

APPLICANT: Allison Elpers, Custom Sign & Engineering, Inc.

OWNER: Melmar Holdings LLC

PREMISES: Lot Four (4) in Owen’s Part of the City of Mt. Vernon, Posey County, Indiana. Section 8, Township 7 South, Range 13 West in Black Township. More

commonly known as 500 E. 4th St., Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests Special Use to install an electronic message board in a CG (Commercial General) Zoning District Section 153.166 (N) 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's here wishing to speak?

SCOTT ELPERS: 5344 Vann Road, Newburgh. We are requesting a new message center for the United Fidelity Bank just right up the street. They have purchased some other banks and they are going to move this unit that is here to another location and put a new one here that has a little tighter resolution and get a better picture.

RON FALLOWFIELD: The United Bank will be the same height and the message board will be right underneath it?

SCOTT ELPERS: Correct. The difference is the current sign is a 3 x 8 and the new message center will be a 4 x 8. Just 12" larger but will be in the same position.

LARRY WILLIAMS: It will still be a moving letter board?

SCOTT ELPERS: Correct.

LARRY DROEGE: The physical location will be exactly the same and using the same concrete base?

SCOTT ELPERS: Everything will remain that same. The only things is that we are going to be taking the message board off of that structure, leaving the sign and pole cover. Everything is the same except we are putting a new message board on there.

MARK SEIB: The light will be able to be dimmed sunrise to sunset and those kinds of things?

SCOTT ELPERS: Yes. The new one will be dimmer than the current sign. It is the same brand sign as well as what is currently there and what is across the street at Liberty.

KEITH SPURGEON: Is the color scheme the same?

SCOTT ELPERS: It's the exact same thing.

LARRY WILLIAMS: OK. Have a seat. At this time, I'll open up the floor for public comment. Is there anybody here who wishes to speak for or against this application? Hearing none, we will close the public portion.

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

Mr. Williams opened up to the board for further discussion and or action.

Keith Spurgeon made a motion in the affirmative to approve Docket # 22-12-SU-BZA. Motion seconded by Ron Fallowfield. The Special Use Voting sheet was read. **Roll Call Vote (5-0) Yes. Motion carried.**

MINDY BOURNE: This Special Use has been approved. You will have to get your Improvement Location Permit before placing the sign.

ATTORNEY BETH MCFADIN HIGGINS: Just a reminder on signs, this was the zoning. If you have to meet any State requirements or if there are any limitations, take that up with the State.

SCOTT ELPERS: Ok.

VARIANCE:

DOCKET NO: 22-15-V-BZA

APPLICANT: Posey Solar, LLC

OWNER: Harley M. Kauffman Holdings LLC

PREMISES: All that part of a one hundred (100) acre tract of land, being one hundred (100) rods in width off of the East Side of the Southeast Quarter of Section 10, Township 7 South, Range 12 West, lying in Marrs Township, Posey County Indiana. More commonly known as 9901 Lower Mt. Vernon, Mt. Vernon, Indiana. Containing 36.94 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Posey Solar LLC requests a variance of development standards of the Posey County Zoning Ordinance to provide for development of a Solar Energy Conversion System (SECS) – Tier 1 (Greater than 20 acres) relaxing rear setback to zero across listed participating property. This variance only affects the participating property within the overall project area. This variance does NOT affect any property line of non-participating properties.

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's here wishing to speak?

JARROD PITTS: 1701 East John Carpenter Blvd., Irving, Texas. I am a Director with Tenaska. Tenaska has been supporting the development of the Posey Solar project on behalf of the project owner, Arevon. We are here this evening to request this setback Variance as part of

our project. I did want to recap some brief history with this project and various steps we have taken with the county. In late 2021, the project received its Preliminary Development Plan approval from the APC. Soon after that approval, we went before you the BZA seeking this same type of Variance on 61 parcels within our solar footprint. Those Variances were approved at that time. August of this year, we went back before the APC with our Final Development Plan application which was approved by the APC. As part of that Final Development Plan application, there was a lot of detailed engineering that our team did. As part of that additional review with engineering, we identified one additional setback Variance that we did not capture last year. Thus the request here this evening. I want to reiterate that this is for an internal setback only and this will have no impact on the setbacks for nonparticipating residents as prescribed in the Solar Ordinance. We believe that approving this would provide for a more efficient use of the land for the project and for the landowner. It would also have the impact of reducing the project footprint because we are able to more efficiently utilize that land. We appreciate your consideration here this evening and I would be happy to answer any questions.

RON FALLOWFIELD: This is the only one that wasn't in the original...

JARROD PITTS: Correct.

KEITH SPURGEON: Obviously you have the approval of those landowners that are impacted?

JARROD PITTS: Correct. We included an affidavit of consent with the property owner that allows us to take this action on their behalf.

LARRY DROEGE: Would it be safe to assume the general outcome of the Variance would be to enlarge the solar footprint on that parcel of ground to get the panels... more panels per acre?

JARROD PITTS: Correct. If we didn't receive this setback then we would have to create a setback between the two parcels where they abut one another. So we would not be able to efficiently cross the property line with the solar arrays as you see in the map. By not receiving this approval, we would then have to expand the footprint to make up for the inability to use that land.

LARRY WILLIAMS: Is this near any current residents that are out there? How far are you away from the nearest property that has a residence on it?

JARROD PITTS: If you look at the last map on our application, at the top right there is a Westwood logo. This map is from our Final Development Plan. There is one nonparticipating residence which has a yellow circle. That is a setback for a nonparticipating residence. You can see based on our site plan that we are adhering to the 300' setback from a nonparticipating residence. This Variance here would have no impact on complying with that provision. The property to the south is owned by the same landowner.

LARRY WILLIAMS: You may have a seat. We will now open the public portion. Is there anyone here wishing to speak for or against this application? Hearing none, we will close the public portion.

Mr. Williams confirmed with Mrs. Bourne there were no phone call, no emails or no letters.

LARRY WILLIAMS: We will now open this application up to the board for discussion and or action.

Ron Fallowfield made a motion in the affirmative to approve Docket # 22-15-V-BZA. Motion seconded by Keith Spurgeon. The Variance Voting sheet was read. **Roll Call Vote (5-0) Yes. Motion carried.**

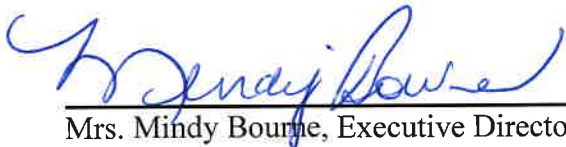
ADDITIONAL BUSINESS: None

CITIZEN CONCERNS: None

Keith Spurgeon made a motion to adjourn the meeting at 5:28 p.m.



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: 22-12-54-BZA

Allison Elpers, Custom Sign & Eng.

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

Yes - 153.166(N) - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

Announce their presence - business - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

Yes - address at location of bank - Larry Droege

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

Does not interfere with traffic pattern - dimming of lights - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

Should enhance area - Mark Seib

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

business to announce services - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</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.

Current sign no issue - this is not dissent - Larry Williams

Larry Droege () YES* () NO Keith Spurgeon () YES* () NO YES NO
Ron Fallowfield () YES* () NO Larry Williams () YES* () NO J O
Mark Seib () YES* () 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* YES N/A NO
Ron Fallowfield () YES () NO* Larry Williams () YES () NO*
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.

application stays in special use regulations - drinking fountains - Mark Seib

Larry Droege () YES () NO* Keith Spurgeon () YES () NO* YES NO
Ron Fallowfield () YES () NO* Larry Williams () YES () NO* J O
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

*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 13th day of October, 2021.

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS Report of Findings of Fact

BZA NO: 22-15-V-BZA
Posey Solar LLC

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

No - pertains to property owner - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</u>	<u>0</u>
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 - same person owns both properties - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>5</u>	<u>0</u>
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 - 0 setback - same property owner - Ron Fallowfield

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) 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	<u>5</u>	<u>0</u>
Mark Seib	() NO*	(<input checked="" type="checkbox"/>) YES					

4. Are these conditions general in the same zone?

Not the same - Ron Fallowfield

Larry Droege	(<input checked="" type="checkbox"/>) 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*	<u>0</u>	<u>5</u>
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 - number of parcels to place on parcel - Ron Fallowfield

Larry Droege	() NO*	(<input checked="" type="checkbox"/>) 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	<u>5</u>	<u>0</u>
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?

Will not generate street congestion - Larry Williams

Larry Droege	(<input checked="" type="checkbox"/>) NO	(<input type="checkbox"/>) YES*	Keith Spurgeon	(<input checked="" type="checkbox"/>) NO	(<input type="checkbox"/>) YES*	<u>YES</u>	<u>NO</u>
Ron Fallowfield	(<input checked="" type="checkbox"/>) NO	(<input type="checkbox"/>) YES*	Larry Williams	(<input checked="" type="checkbox"/>) NO	(<input type="checkbox"/>) YES*	<u>0</u>	<u>5</u>
Mark Seib	(<input checked="" type="checkbox"/>) NO	(<input type="checkbox"/>) 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 13th day of October 2022

(date)