

MINUTES

POSEY COUNTY BOARD OF ZONING APPEALS REGULAR MEETING

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

JUNE 8, 2023
5:00 P.M.

MEMBERS PRESENT: Mr. Larry Williams-Chairperson, Mr. Ron Fallowfield-Vice Chairperson, Mr. Larry Droege, Mr. Mark Seib, Dr. Keith Spurgeon, 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: Keith Spurgeon made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Larry Droege. **Motion carried.**

SPECIAL USE:

DOCKET NO: 23-06-SU-BZA

APPLICANT: Matt Bohleber

OWNER: Catholic Diocese of Evansville/St. Philips Catholic Church

PREMISES: Part of the West Half of the Southwest Quarter of the Northwest Quarter in Section 24, Township 6 South, Range 12 West, Marrs Township, Posey County, Indiana, containing 18.55 acres, more or less. More commonly known as 3500 St. Philip Road South, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use for Hall addition (church storage building) (1982 sq. ft. main level, 1500 sq. ft. basement and 1500 sq. ft. attic) in an R-1 (Residential Single-Family) Zoning District Section 153.042 (B) (3) Use Unit 4 - Community Services and Section 153.149 (B) (4) 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 the requirements for notification per the statute.

MATT BOHLEBER: 10620 Adam Street, Mt. Vernon, IN. We are requesting to add onto the hall.

RON FALLOWFIELD: Will you be adding parking?

MATT BOHLEBER: It's just the storage building. It does not take any parking that we currently have as well. It is just extending in the grass area.

MARK SEIB: It will be strictly used for storage of equipment? Will it have any lighting on the outside?

MATT BOHLEBER: There is lighting in the parking lot. I think three poles with two lights on them.

MARK SEIB: Are those directional lights or are they more of a dusk to dawn light?

MATT BOHLEBER: Directional lights. They will shine out onto the parking lot.

LARRY WILLIAMS: How close are you to the nearest neighbor?

MATT BOHLEBER: I think it was within 100'.

LARRY WILLIAMS: So the lighting won't affect them?

MATT BOHLEBER: No, it will be pointed in the other direction, back towards the west.

LARRY DROEGE: The new addition will be a three level and there will be storage on three different levels?

MATT BOHLEBER: Yes, there will be a basement that will be entered from the south side and that will be storage for pretty much anything that contains gas or oil like lawnmowers and such. The main level will be at the parking lot level and that will all be storage. Then there will be a second story that will be storage as well for stuff that is for our summer social and stuff like that.

MARK SEIB: What is the height of the building?

MATT BOHLEBER: I don't know offhand.

LARRY DROEGE: I see an outside ladder to access all three levels, is that the only way to access all three levels?

MATT BOHLEBER: There will be an internal stairway.

MARK SEIB: Will there be on signage on the building?

MATT BOHLEBER: No.

LARRY WILLIAMS: Is this a pole barn type, or wood type?

MATT BOHLEBER: The current building is block up to the first story and it is wood after that with a gabled roof. This new one will have hardy plank on it at the end and all around the existing building and the new addition to make it the same aesthetic look. On the new part it will be wood frame construction as opposed to concrete block.

LARRY WILLIAMS: Are there any further questions? Hearing none, you may have a seat. At this time we will open this application up for public comment. Is there anyone here wishing to speak for or against this application? 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 application up for comments, discussion or action by the board.

MARK SEIB: The only other question I have is about the water runoff of this building. Which direction is it going?

MATT BOHLEBER: It will go downhill to the east.

MARK SEIB: So none of this water will be going across adjacent neighbor's property?

MATT BOHLEBER: Behind the hall is a continuous hill down. So eventually, yes, the water would run... it's all wooded. At this current time there is no use of that property at all.

MARK SEIB: We are adamant about making sure that we don't force water on adjacent property or making sure that it is slowed down and making sure it doesn't cause an erosion issue. I don't have any type of a topographical map to be able to do a comparison. You are saying that it will go to the west.

MATT BOHLEBER: No, the east.

MARK SEIB: Are you going to be tiling the downspouts or is it just going to be running across the ground?

MATT BOHLEBER: I believe there are riprap areas where all of the gutters will run across. I believe that was on the drawings. I don't have a set in front of me.

MARK SEIB: I'm not seeing it in any of this application.

ATTORNEY BETH MCFADIN HIGGINS: Mark there is one reference to drainage on page 3, the first drawing where it shows the driveway, and it shows a trench and says trench drain for stormwater discharge through rock outfall. Do you see that little triangle?

MARK SEIB: Now I see it. Ok. So if they are putting it through the rock then that is definitely slowing it down. Is it any taller than the existing block building?

MATT BOHLEBER: The profile is exactly the same.

Ron Fallowfield made a motion in the affirmative to approve Docket #23-06-SU-BZA. Motion was seconded by Larry Droege. The Special Use Voting Sheet was read. **Roll Call Vote (5-0). Yes. Motion carried.**

MINDY BOURNE: This Special Use has been approved. You do need to come into the office to get your Improvement Location Permit before you start construction.

SPECIAL USE & VARIANCE:

DOCKET NO: 23-07-SU-BZA & 23-07-V-BZA

APPLICANT: SMJ International/Mark Knapek

OWNER: Linda L. Fieber

PREMISES: The Southeast Quarter of the Northeast Quarter of Section 6, Township 6 South, Range 13 West, lying in Lynn Township, Posey County, Indiana, containing a 10,000 square foot leased area more or less. More commonly known as Highway 69 South, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use and a Variance to erect a cell tower in an (A) Agricultural Zoning District Section 153.032 (B) (3) Use Unit 3 – Public Protection and Utility Facilities Section 153.148 (B) (9) and 153.033 (C) (2) 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 the requirements for notification per the statute.

MARK KNAPEK: 1826 Bainbridge Row Drive, Louisville, Ky. We are requesting to erect a cell tower 290' on Linda Fieber's agricultural property behind her residence.

MARK SEIB: Is this a free-standing?

MARK KNAPEK: It is. It is called a self-support non-guide tower.

MARK SEIB: Is this being used for strictly the cell as far as with a company associated with it or just an open...

MARK KNAPEK: No, Verizon Wireless is the initial requestor.

MARK SEIB: What kind of internet service will it have?

MARK KNAPEK: I don't have that information. I can get back to you.

MARK SEIB: The last one that we did, we pretty much required that it be 5G.

LARRY WILLIAMS: You said initially Verizon, are you planning to open it up to anybody else?

MARK KNAPEK: Yes. If there are other carriers that wish to go on, that is certainly favorable. It provides that less towers have to go up.

KEITH SPURGEON: Are there other towers in the area or is this servicing a dead zone?

MARK KNAPEK: They are initially wanting to put this up to kind of offload capacity from some of the existing sites. We do a search ring of a mile or two miles to see where the nearest one is and if we can collocate on it first. That is preferable. If that is not possible then we will look to put one up. In this case there really not one here so we offload from some of the other towers in the area.

LARRY DROEGE: Do you have the information of how far away the nearest tower is?

MARK KNAPEK: No, I don't. I don't have the information on me. It is not within a mile or two. In a coverage area, they usually require something a little closer than that.

LARRY WILLIAMS: How close is the proposed tower to the nearest residence?

MARK KNAPEK: Linda's residence is 245' away in a straight line.

LARRY WILLIAMS: Will the tower be fenced in?

MARK KNAPEK: It will. A 6' chain linked.

LARRY DROEGE: It looks like the access road for tower maintenance will exit out onto Highway 69. Is that correct?

MARK KNAPEK: That is correct.

LARRY DROEGE: Will that be a new roadway created on Highway 69 or are you using an existing?

MARK KNAPEK: We are using an existing. We are using her driveway. It's a gravel driveway. It goes around like a half circle and it will venture back into the wooded area. It will be along a path that is already created. They will improve it with grading to handle the vehicles to get back there.

MARK SEIB: Larry I believe your question was about distance. How far is the distance from another Verizon tower?

MARK KNAPEK: Unfortunately, I don't have that information. I have a map that shows the location of other towers, but it doesn't have a key to show how far they are away. It looks like there is a tower just north of town from here and then one all the way up near New Harmony. That is northeast of here.

MARK SEIB: Are those Verizon towers?

MARK KNAPEK: Yes.

MARK SEIB: So you are saying one is north of the city limits of Mt. Vernon.

MARK KNAPEK: Yes, there's... would you like to see? I can show it to you.

Exhibit A (2 pages)

MARK SEIB: We don't want them to be stacked on top of each other.

MARK KNAPEK: Nor do we. If there was another tower that provided the service, collocation is always preferable because the infrastructure is already there.

LARRY DROEGE: The ground that the tower will be constructed on, is it tillable acres right now? Is it used for growing crops?

MARK KNAPEK: It's pasture. There's a large kind of circular area that is just pasture and it is surrounded by trees.

RON FALLOWFIELD: It's about in the middle of all those towers he showed us.

MARK SEIB: What are the abilities of the wind knocking it over? I know some are designed to collapse into themselves. If it falls, what type of design are you constructing?

MARK KNAPEK: It's self-support, which is a lattice structure. Generally there are three different kinds. A monopole which is just a steel structure that's hollow and then a guide tower which is a lattice structure but it has the cables that go down. That's not what this is. This supports the lattice structure that's going to go up. I don't have the technical specs on it. We can provide an engineering letter and a fall zone letter to show how it was planned to come down if it comes down.

MARK SEIB: Right, because you're supposedly from the property line you are 290'?

MARK KNAPEK: Correct. With a 4' lightening rod on top.

MARK SEIB: And you've already made comment that the property owner's house is almost that distance?

MARK KNAPEK: Yes. Like I said, I can provide an engineering letter to show the fall zone.

MARK SEIB: We would like to know the design and construction of it. I understand the woods is in the way to some degree if it falls. If it tips, there's always risk of damage. There where it is very isolated, it's in a location that it shouldn't have any trouble.

LARRY WILLIAMS: Are there any further questions from the board? Hearing none, you may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application? 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 application up for comments, discussion or action by the board.

MARK SEIB: I'm somewhat concerned because we've always had an issue with the internet. The last tower that came before us was required to have a 5G or better. I think the location of the tower is as isolated as it can be from the public. I have a concern with whether the 290' is going to be able to reach if it tips. Most of them are made to collapse within themselves, but we are unable to verify that on this one at this point in time. I guess if we make a motion I want to make a requirement of 5G or greater.

RON FALLOWFIELD: With that said, I think we should just put it off until next month until we have that information.

MARK SEIB: It's whatever the board feels.

LARRY WILLIAMS: I know there has been a lot of work in the county improving the internet. I don't know if that would affect us or not.

MARK SEIB: I don't want to see us go backwards. We've already somewhat made a standard out of the last tower that came before us. The 5G provides a services for those that strictly only have phone internet.

LARRY WILLIAMS: Is this information that you can get back to us?

MARK KNAPEK: Yes.

LARRY WILLIAMS: If we table this, can you get the information we have requested?

MARK SEIB: And before you answer that, if we put that as a stipulation and you can't do that, then you are sunk and you can't apply for another year.

MARK KNAPEK: So you're questions are having 5G service and whether or not that is going to be on the tower and the structure letters. So if we can provide an engineering fall zone letter, that would suffice?

MARK SEIB: Yes, that would take care of that and then if 5G or better is going to be offered on that tower.

MARK KNAPEK: Ok. If I provide that within a weeks' time... I still have to come back next month and we go in front of the board again?

MARK SEIB: We meet once a month.

MARK KNAPEK: So I'll come back next month and answer the questions provided and we will go through the request again?

MARK SEIB: Yes.

MARK KNAPEK: I am fine with coming back if that is what you all want.

Mark Seib made a motion in the affirmative to table these applications until the July meeting. Motion was seconded by Ron Fallowfield. **Roll Call Vote (5-0). Yes. Motion carried.**

LARRY WILLIAMS: Our next meeting is July 13.

SPECIAL USE & VARIANCE:

DOCKET NO: 23-08-SU-BZA & 23-08-V-BZA

APPLICANT: Michael J. Buente/Rev. Ed C. Schnur

OWNER: St. Wendel Catholic Church

PREMISES: Section 12, Township 5 South, Range 12 West, lying in Robinson Township, Posey County, Indiana, containing 6.23 acres more or less. More commonly known as 4725 St. Wendel Cynthiana Road, Wadesville, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests a Special Use to build a 2-story addition that will add two classrooms to the existing St. Wendel Catholic School. The classrooms are 1,118 gross sq. feet per floor (2,236 sq. ft. total) in an A (Agricultural) Zoning District Section 153.032 (B) (4) Use Unit 4 – Community Services and Section 153.149 (B) (24) and Variance for relaxation of front yard setback from 25' to 8.5' Section 153.033 (B) (1) (b) 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 the requirements for notification per the statute.

FATHER ED SCHNUR: I'm the pastor at St. Wendel Catholic Church. The address is 4712 St. Wendel Cynthiana Road, Wadesville.

MICHAEL BUENTE: 2406 Bellemeade Avenue, Evansville.

FATHER ED SCHNUR: Our request is to add two classrooms to St. Wendel Catholic School. The reasoning is that we added several classrooms a few years ago for our pre k and preschool program and that's increased the number of students and they are moving on up to the K through 8. So we need some additional space.

MICHAEL BUENTE: We have two requests. One is a Special Use and then one is a Variance. The two-story addition is one classroom per floor. The proposal is to put into what was originally the school main entrance and office. Years ago, there was an addition put on to the north of the school where the brand new main entrance and canopy exists along with the school administration area. This will take the place of what now kind of looks like a main entrance that will be at the other end of the school near the church. The setback request is to be able to build this in that location. We had a survey of the exact location of the center line and the white stripes and so our requests are based on that topographical survey which was actually there on site now. We are showing a comparison of the setback is similar, actually just a little more, than the wall setback and the structure that is in front of the church where there is an outdoor gathering space with a substantial brick wall with railing. So it is a similar setback to that.

LARRY DROEGE: You said it was similar to the church?

MICHAEL BUENTE: On the drawing you will see that there is a gathering space in the front of the church?

LARRY DROEGE: Yes.

MICHAEL BUENTE: On the far right is the closest point. Because the buildings are skewed from the angle of the road, there's a point where it's close. That is 7.5' from the right of way. The addition, as you slide down the drawing you're looking at, the corner of the building is 8.5' from the right of way. We are showing that as a comparison of what is there now from a visual and setback perspective.

LARRY DROEGE: Do you know what that dimension would be to the actual paved road? There may be a dimension here that I can't read that tells how much the right of way is.

MICHAEL BUENTE: It's a 20' right of way.

MARK SEIB: Are you using the existing building to build this additional classroom off of or is it going to be its own self-standing?

MICHAEL BUENTE: It attaches. There is an existing canopy there that goes away and this slides in place where the original entrance, stoop and canopy was.

MARK SEIB: And that is going to be two stories?

MICHAEL BUENTE: Yes, two stories. It's approximately the same height as the existing school. It's slightly a little less than the addition that's on the other end as far a height. It's around 25', more or less.

MARK SEIB: But the entire addition you're proposing two stories all the way across?

MICHAEL BUENTE: It is.

MARK SEIB: Will the roof be sloping back a certain direction with the water runoff?

MICHAEL BUENTE: There will be roof drains in the center of that portion with quarter inch drainage from all directions. It's going to be tied back into the existing drainage system of the school. The relief drain, which is required by code when you have a deluge, will go out into the drive approach area and it will go out into the street. The hard surface that we are increasing though is only 786 square feet of impervious area. So we are less than 1,000 square feet of new hard surface because we are building on top of what is now a lot of hard surface. We took a subtraction of what is currently there, what we are taking away and what we are adding. The majority of that will still go back into the school, but we don't have the capacity to have the relief also go in there. So we are leaving it out on the ground, in to the gutter basically, or the street gutter.

MARK SEIB: Are you putting any lighting on the building?

MICHAEL BUENTE: We have required lighting by code for the emergency exits. Next to them you have to have a certain light on the outside. We are doing a sharp cutoff, a kind of angled light that just puts light downward. We won't be adding light to the night sky. Along the south elevation on the church side, we are putting a series of low lights that are at the bottom of the wall that put light out on the pavement just to identify the entrance a little better for people that are coming in from the south.

MARK SEIB: Any new signage or lit signs?

MICHAEL BUENTE: We are proposing to relocate a sign that is on the side of the school now onto the side that faces south. It's just individual letters that say St. Wendel. It will not be lit. There is an existing sign that is lit out there now. That will be demolished. At this point there is no new sign proposed.

LARRY WILLIAMS: Where is the new entrance going to be?

MICHAEL BUENTE: The existing entrance that was built in 2006, is on the intersection of County Line Road and St. Wendel Road. That is where the office area is.

KEITH SPURGEON: So the new classroom space, you are comparing that distance to the road to the gathering plaza. The gathering plaza is an exterior area.

MICHAEL BUENTE: It is. It is elevated.

KEITH SPURGEON: Your classroom, of course, will be enclosed and it is about 18.5' from the edge of the road?

MICHAEL BUENTE: Correct, from the white line, which is the same as the edge of the road.

KEITH SPURGEON: And your next closest classroom space is probably about 35'. The drawing shows 25'.

MICHAEL BUENTE: That's actually the administration area, but there is a classroom on the second floor of that addition. That addition did meet the criteria of 25'. As you can see, we were able to do that because the road angles and opens up there. This is the only place they can really add on and it's the logical place to have the entrance and exit. It fixes taking away this entrance that looks like a main entrance. Just the other day they had someone come and they didn't go to the main entrance, they went there. Of course they can't get in, there's no intercom there. It's a brick masonry building and will look like the addition built on the other end and will be compatible with all the other brick that we've done on the campus over the years.

KEITH SPURGEON: I'm just a little concerned about classrooms sitting that close to the road.

MICHAEL BUENTE: One of the things we are doing, well there's a couple of things we are doing, we've moved the curb out. If you look on the site plan you will see the curb and paving. Now there is a drop off and pick up area along that entire portion of the road. We are sliding that down and moving that curb down further toward the road to give a more of a buffer area there. We are also reinforcing the wall on the first level for that very reason to give another sense of security for any impact.

KEITH SPURGEON: Have you thought about any concrete barriers between like the curb and the building?

MICHAEL BUENTE: We had thought about that. But that is putting another structure out even closer to your setback and how close do you put them where something won't go through them? We are concerned about having any visual obstruction for someone that is pulling out. We purposely have not put any vegetation in that area, it is all pavement out toward the road so that nothing can ever be planted there. If you put a barrier out there it could impede vision. So we thought it was better to just integrate it into the wall structure. The floor line is actually about 2' above the floor line, above the grade line because the grade falls away. You have earth behind it and then we are going to reinforce above that. We have a certain amount of reinforcing required by seismic criteria anyway, so we are just doubling that up.

LARRY WILLIAMS: Are there any further questions from the board? Hearing none, you may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application? 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 application up for comments, discussion or action by the board.

MARK SEIB: Keith, I guess you asked the question as far as the students close to the road, and I didn't quite catch that. Are there classrooms on the first floor close to the road?

KEITH SPURGEON: There's one classroom upstairs and one downstairs.

MARK SEIB: Ok, so the downstairs is all classroom space?

KEITH SPURGEON: Yes.

MARK SEIB: Have they received all of their State permits?

MICHAEL BUENTE: We have not completed the construction documents 100% yet. We are about ¾ of the way through. There was no reason to go forward if we can't get this Variance because it won't be built there. When we do put it out for bids, we will send it to the State and as I understand we will come back before you or somebody here for the plan release, I believe. But yes, it will go to the State. It hasn't occurred yet.

MARK SEIB: You haven't applied yet?

MICHAEL BUENTE: No.

MARK SEIB: Ok. That is the question.

LARRY DROEGE: Does our county allow a building that is a classroom to be built 18.5' from the edge of the pavement? It doesn't seem right to me that we can build a classroom that close to the road.

ATTORNEY BETH MCFADIN HIGGINS: I don't think there is going to be anything saying a classroom itself... It's the front yard setback. So, generically it's a front yard setback for any building depending on your zoning. I think this one is 25'. It's typically a required 25' setback.

KEITH SPURGEON: So I guess the answer is sort of no, it is supposed to be 25', but they can get a special request, which we have done before. I guess the question is then do you want to do it when it's a classroom?

ATTORNEY BETH MCFADIN HIGGINS: So, it's a Variance. This is twofold, number one they need a Special Use because it's an addition to a church. So they have to get a Special Use just to build anything just because of the zoning request. Then, even if you take that up, any motion on the Special Use needs to be subject to approval of the Variance which is part two. The applicant and the board need to think about this because if you take a vote, depending on what the vote is, if for some reason it is not approved then they cannot file for a year for that same request. The bottom line is if there are any additional questions or information you need, they would probably rather take the time to get that additional information back to you or you can ask if there are any changes they could make in the design to get it to a certain area.

LARRY DROEGE: I guess for me I would feel better if there was an engineering plan to prohibit an oncoming dump truck from coming off the road and running into that classroom. That's a busy road and it's awfully close to the road. It doesn't sound like there's any engineering plans in place right now rather than curb.

RON FALLOWFIELD: He said they have doubled the size of the support of that corner.

KEITH SPURGEON: They have strengthened the wall.

LARRY DROEGE: We don't know specifically how they are strengthening the walls. I think we something a little more.

LARRY WILLIAMS: Mr. Buente, would you like to address that?

MICHAEL BUENTE: As I've stated we requested to our structural engineer that he strengthen the wall for the very reason that you are concerned. We haven't completed the construction drawings yet, but we plan on reinforcing that wall.

MARK SEIB: But can you tell us that the reinforcement is going to stop a...

MICHAEL BUENTE: A dump truck? I don't think we could tell you that even if we did an INDOT guard wall. I mean, it may go over a guard wall too.

MARK SEIB: But it would slow it down. Is there anything we could do with a pipe structure that could be placed out there?

MICHAEL BUENTE: Like a guardrail, but something more attractive?

MARK SEIB: A piece of 8" pipe sitting in the ground that's concrete reinforced. I guess what we are trying to say is something to slow the vehicle down and hopefully still maintain the wall being resistant to the impact as well.

MICHAEL BUENTE: We do have a series of guard posts that we are proposing along the south side and one is actually on the corner of the building. We could, on the back of that walk, if you're ok with that... I don't know if that constitutes changing the setback requirement. You're saying the building is the building setback and not a wall or something.

MARK SEIB: If you were to put another wall there as your deterrent, then that might be a concern that we would have.

MICHAEL BUENTE: I think the guard post idea would be better. I think a guard rail or guard post along there or a series of them on the back of the walk... We could do that and it could accomplish what we are after and not block the view and keep it close to the building. Look at the drawing there, there is a planting area and we could put it in that planting area along the edge of the walk. If a truck is coming from the northwest, they could go off the road and hit the school now. Going north, yes we could do that.

MARK SEIB: I totally agree. But we have an opportunity since you are adding to it to take it into consideration.

MICHAEL BUENTE: Would you be willing to approve this with the stipulation that we would put guard posts there? We have a site review or plan review at some point.

MINDY BOURNE: No. That's for commercial and manufacturing zoning districts.

MARK SEIB: The State takes over that authority more than what we do.

MICHAEL BUENTE: If we could, we would like to go ahead and have that as a stipulation that we would do that. We are trying to get this so it can be constructed so they can occupy it in the 2024 school year. Tabling this would be an issue.

FATHER ED SCHNUR: So the idea is to put something in between the road and the building, correct?

MARK SEIB: And enough setback away from the building to... I'm not just saying one pole. If you had somewhat of a spaced out barrier that a vehicle cannot squeeze through...

FATHER ED SCHNUR: To place something esthetically pleasing, could it be something like those big balls like Target has to prevent people from going into their building? Would that suffice as well instead of a pole?

MARK SEIB: I think anything that is poured or placed in the ground for the support to stop a vehicle from coming in would be alright. Whatever you design to be extra pleasing to the eye, I don't think that's an issue as long as it still maintains the idea that it is to help slow down or stop a vehicle from continuing on.

FATHER ED SCHNUR: Ok. So if we made it next to the sidewalk and not close to the building so there is some distance between them.

KEITH SPURGEON: I think that is in some ways better to have it closer to the sidewalk so it can slow it down. I would also like to see it continue to be reinforced walls.

MICHAEL BUENTE: Are you familiar with the old Robert's Stadium? I actually worked on that project when it was remodeled. If you remember there was like 8" or 6" pipe that was a simple loop and were around 8' to 10' long. It was designed so that people could not just hop the curb and jump from one parking lot to the other in their truck.

LARRY WILLIAMS: It almost looked like a bike rack, sort of.

MICHAEL BUENTE: Correct. It allowed enough room for pedestrians to walk through. We could do something like that. The grade does slope through there so that would allow us to step these and still keep them aesthetically pleasing.

MARK SEIB: The main purpose of what we are trying to do is a vehicle hitting the wall and going on in and doing damage while the kids are in the school. So whatever you can come up with then like a safety net that would accomplish that. We are willing to give you latitude to be able to do that as long as you prove it is able to accomplish what we are after here. I don't know what the State is going to require. I think what we need to do here is to try to ensure the safety. The extra strength of the wall as an extra barrier is still something we want to see put into play. But then out in front, something that would slow them down so the impact wouldn't be as great or maybe stop them before they could even get to the wall. I don't think we are trying to say it has to be the pipes or anything like that.

MICHAEL BUENTE: I understand your concern. We will have to look carefully at the visual angles to make sure we put it in the right place.

MARK SEIB: And as much as we can do to protect that area is what I guess we are saying.

MICHAEL BUENTE: As far as your comment about the State, there is no State requirement on that. The setbacks on that have more to do with the allowable area you are allowed to build. We have front yard where we have a public way there. There is no setback requirement from the State.

MARK SEIB: I'm saying as far as any posts or anything for safety reasons or anything like that. For what we are talking about here, I don't know if the State requires anything off of that. We were talking about the poles being put into the ground to slow down the truck or whatever... There's nothing like that from the State?

MICHAEL BUENTE: There's nothing like that, correct. If you're in a Central Business District like we are right here, you are usually up to the property line.

MARK SEIB: Back then when this building was built, that wasn't even a consideration.

MICHAEL BUENTE: Any inner urban area that's not uncommon.

LARRY WILLIAMS: Anything further? Do I hear a motion?

Mark Seib made a motion in the affirmative to approve Docket #23-08-SU-BZA with the stipulation that they erect some type of barriers that would be placed in front of the school to ensure the safety of kids so that a vehicle cannot freely go through and hit the wall, that they maintain the construction of the support walls, and subject to the approval of the Variance. Motion was seconded by Ron Fallowfield. The Special Use Voting Sheet was read. **Roll Call Vote (5-0). Yes. Motion carried.**

LARRY WILLIAMS: Do we have a motion for the Variance?

Ron Fallowfield made a motion in the affirmative to approve Docket #23-08-V-BZA with the same contingencies as we put on Special Use 23-08-SU-BZA.

LARRY DROEGE: I'm not ready to move forward with the setbacks without some engineering assurances.

LARRY WILLIAMS: We haven't asked for any.

LARRY DROEGE: I think we need to discuss it.

LARRY WILLIAMS: We need a second before we discuss.

MARK SEIB: Larry is right, we need a second and then have discussions. We then can either pass it, fail it or table it after that.

Motion was seconded by Larry Droege.

LARRY WILLIAMS: And what are your concerns?

LARRY DROEGE: To reduce the setback that much without some kind of engineering assurances. That shouldn't be that difficult to come up with some design. I don't think it's too much to ask to have some reassurances as opposed to just verbal.

KEITH SPURGEON: Can we approve the Variance contingent upon submittal of extra documents?

ATTORNEY BETH MCFADIN HIGGINS: Once it's approved, you don't have the opportunity to come back and review those documents to determine if it answers Mr. Droege's questions. It's tough to approve it and say as long as you get us the report. What is that report? What does it need to show you? We don't know. It's tough to do an approval subject to some document that you're not sure what you really want to see in that document.

MARK SEIB: I guess, Beth, can we do a stipulation that they present those plans and we would go ahead and have it reviewed? I'm just trying to figure out a way through that.

RON FALLOWFIELD: Could you do it with the approval of the Building Commissioner?

ATTORNEY BETH MCFADIN HIGGINS: It's probably more than a Building Commissioner, more of an engineer. Then you would have to determine what the engineer...

MARK SEIB: I guess what Larry and the rest of us are wanting to do is ensure that is going to take place and showing that it is in the design work and it is going to be done and it's going to be suitable and meet the requirements that we are after. We are not engineers and we don't know if that pole needs to be 50' in the ground or whether it needs to be 5' in the ground. There's a lot of those issues that we need to go through. I'm trying to figure out a way if we allow for their design work for that to be submitted to Mindy and giving her the authority to have an engineer review it and give us an opinion. Then if it is satisfactory...

ATTORNEY BETH MCFADIN HIGGINS: So you have three contingencies there. We want to give our applicants a very clear-cut, provide this and we will do that. That's usually what your contingencies are. Provide this in a certain period of time...

MARK SEIB: So if we allow that they have to get an engineer to design that, that puts his stamp on that design to ensure that it is going to meet what it says it's going to do.

LARRY DROEGE: I would hope as a licensed architect, yes.

RON FALLOWFIELD: Don't we have that? They have one.

MARK SEIB: I know, but they don't have the design for that to be put into play right now. We are saying it would have to be a design that would be done and signed off by an engineer and then Mindy could go ahead and issue the permit.

ATTORNEY BETH MCFADIN HIGGINS: So you're giving them direction so they know what to ask for from the engineer. You want an engineer's stamp on it as it is a reasonable vehicular barrier. We can't say what type of vehicle. A reasonable vehicular barrier for the protection of people that may be in that building.

MARK SEIB: With the engineer being able to sign off on that and put their stamp on it. Mindy receives a copy of that, then that would go ahead and be approved for permitting.

ATTORNEY BETH MCFADIN HIGGINS: Yes. You will want to check with the applicant to see if they want to do that. Otherwise, from a timing standpoint, our next meeting is July 13, so that's the time you're looking at.

MICHAEL BUENTE: I didn't quite follow all of that.

ATTORNEY BETH MCFADIN HIGGINS: So the board is requesting that if they approve this, one of the stipulations would be that the applicant/owner provide a letter from a professional engineer with a stamp on it that indicates whatever barrier you are talking about designing would be a reasonable vehicular barrier for the protection of persons in that building.

MICHAEL BUENTE: That sounds reasonable. What we are going to have to do is decide what that criteria is. Our thinking is that we would direct our engineer to have a similar impact to say an INDOT guard rail. Because you can't just say what's the criteria. The criteria I think would be an INDOT or whatever that is designed for as a possibility. Not that we want an INDOT guardrail there, but whatever impact that is designed for, it's probably a glancing blow which is probably what this is going to be. It's not going to be a head on straight. I think that would be reasonable. But we as the architects have to give them a parameter. I don't know what that impact criteria is on an INDOT guardrail. That would be a starting point, I think.

MARK SEIB: If we make that with those wordings, then that means the engineer has to put his stamp on it and he is going to have to stand behind it. Or if he doesn't design it right, then his bond is up to cover that.

MICHAEL BUENTE: I'm not saying it should meet the INDOT standard.

MARK SEIB: With what we are saying is that it has to be a reasonable amount of protection in design and done to... What was the wording you used?

MICHAEL BUENTE: I think the wording you used is fine. Everyone needs to understand that the owner and us as the architect, we are as concerned about the kid's safety as anyone.

MARK SEIB: We're not saying you're not.

MICHAEL BUENTE: I know. I'm just saying that I understand your concern and it's not like we didn't know that it was a concern. We've already tried to take some steps to mitigate it. But we are ok with going further steps.

MARK SEIB: I think we've heard what they've said so...

MICHAEL BUENTE: So what we would do is we would come forward with, not a whole set of drawings because that takes time to do that, we would just come up with a site plan and show that design of the wall...

MARK SEIB: Where the area is going to be affecting it. Show a small sketch of what design you are going to do with an engineer's stamp on it giving that simple statement that it is designed to withstand whatever they want to say. You would give it to Mindy and that would be filed with the case. Once it has been submitted to Mindy, she could issue the permit.

ATTORNEY BETH MCFADIN HIGGINS: If the engineer is going to do that, you may want them to give you some detail on the wall and just how it's being reinforced.

MICHAEL BUENTE: We will give you drawings of the wall design and the site design with the guardrail in place and the design of that.

RON FALLOWFIELD: Let me ask you this, if it's a 25-mph speed zone through there, do we need to stipulate a speed? I know some people drive 40 through there. You just have to use common sense.

MICHAEL BUENTE: That's the issue. I think you're trying to project that someone isn't driving at the speed limit. What we would probably do is look at guardrails on highways and use their judgement on that and what they are designed for. A lot of them are designed to collapse. I don't think we want to do that. We actually want to resist or direct the blows to another direction. We will look at the criteria that is used on highway design on guardrails and use that as the basis for our design or thought process to see how to go about it.

LARRY WILLIAMS: Do we need to amend the motion? We have a motion and a second on the floor to approve the Variance.

ATTORNEY BETH MCFADIN HIGGINS: Yes, because there is no stipulation.

MICHAEL BUENTE: We have to submit our entire set of drawings to the State of Indiana, Homeland Security, they review it, the Fire Marshal reviews it, the State Design Release and if there is criteria with stipulations on that we have to meet then we have to go back. Usually we don't have any criteria that has to be met.

KEITH SPURGEON: So you don't have to submit anything to the Department of Education? You're not required under those...

MICHAEL BUENTE: No. They may have some documentation, the school may have to do something. One of the reasons the building is the size that it is because they've got requirements for that square footage of

classrooms. We are trying to match the existing classrooms. There are regulations that are driving the size of the building, the location and how big it is. We couldn't make it possible to meet that 25' setback.

LARRY WILLIAMS: Ok, so we have a motion on the floor that we need to amend.

Ron Fallowfield amended his motion to request the applicant bring forth design work that is met by an engineer providing a stamp saying that it is within reasonable vehicular barrier to be placed in the front to reduce the impact to the school and maintaining the support wall of the school and construction detail of that front wall.

LARRY DROEGE: I guess what we are trying to decide is if we want to delay the proceedings by 30 days? If we table it, then they would bring it to us and we approve the setbacks based on the engineering's drawings and we move on.

MARK SEIB: If they get an engineer to approve, design it and put his stamp on it, Mindy then accepts it and puts it as part of the record, then that stands.

LARRY DROEGE: As opposed to us waiting 30 days and reviewing 23-08-V-BZA?

MARK SEIB: That's exactly right. With understanding of what they told is that they were trying to have it ready for the 2024 school year.

MICHAEL BUENTE: We are trying to get it out... It's going to take at least a year to build. We are trying to get it built so they can occupy it in the fall of 2024. Which means we have the timeline that we have to keep going to meet the criteria of that.

KEITH SPURGEON: The upside to waiting is so that we would have those numbers and have those insurances and kind of know what that barrier going to mean specifically and how is it going to stop... Basically know what we are approving.

LARRY DROEGE: The 25' to 8' is significant.

MARK SEIB: I would say we need to vote this motion down and wait until next month.

RON FALLOWFIELD: I understand, but we're not structural engineers.

LARRY WILLIAMS: We have a motion and we are waiting for a second. We have a motion that has been amended and we are waiting for a second before we have any further discussion on it.

ATTORNEY BETH MCFADIN HIGGINS: And if the person that made that second does not agree to the amendment then we go back to the original motion. So then we would probably have a withdrawal of the motion.

MARK SEIB: Or we can make a motion to table.

LARRY WILLIAMS: We have to vote on the motion to amend or withdraw it.

ATTORNEY BETH MCFADIN HIGGINS: First let's see if we get a second.

LARRY WILLIAMS: That motion dies due to lack of a second. Now we are back to the original motion.

Ron Fallowfield withdrew the original motion. Motion was seconded by Larry Droege.

ATTORNEY BETH MCFADIN HIGGINS: Now the floor is clear for a new motion.

Larry Droege made a motion in the affirmative to table Docket #23-08-V-BZA until the July 13 meeting with additional information to support the request for setback from 25' to 8.5' specifically the engineering design drawings for school safety. Motion was seconded by Keith Spurgeon. **Roll Call Vote (5-0). Yes. Motion carried.**

MICHAEL BUENTE: When do I have to have that submitted?

ATTORNEY BETH MCFADIN HIGGINS: The next meeting is July 13. If you could, get that to the office by July 6. That way it can go into the packets that are sent to the members.

MICHAEL BUENTE: There was another option I thought of. There is a building permit required, correct?

MINDY BOURNE: Yes.

MICHAEL BUENTE: You could put a stipulation that the building permit not be issued if you didn't receive the requested information.

ATTORNEY BETH MCFADIN HIGGINS: I think the board has indicated that they would at least see the documents. It may actually quicken the process without going back and forth with the Building Commission. You will need to be here at the July 13 meeting at 5:00 p.m.

SPECIAL USE:

DOCKET NO: 23-09-SU-BZA
APPLICANT: Jeffrey Zenthofer
OWNER: Jeffrey A. & Jolene S. Zenthofer
PREMISES: Part of the Northeast Quarter of Section 25, Township 5 South, Range 14 West, in Lynn Township, Posey County, Indiana, containing 6.98 acres, more or less. More commonly known as 1850 State Road 69 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 kennel in an (A) Agricultural Zoning District Section 153.032 (B) (6) Use Unit 15 – Other Trades and Services, and Section 153.160 (B) (2) (e) (vi), 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 the requirements for notification per the statute.

JEFFREY ZENTHOFER: 1850 State Road 69 North, New Harmony. I would like build and operate a kennel. It will just be me and my wife will be working there.

LARRY DROEGE: How far away is your nearest neighbor?

JEFFREY ZENTHOFER: The nearest would be across the highway and would be the Mercers. It is probably at least 500' if not a little further. But they would be the closest.

MARK SEIB: Is the design of the building going to be open or will it be totally enclosed?

JEFFREY ZENTHOFER: It's going to be totally enclosed. The design is 40' x 80' pole barn structure that along the 80' sides each side will have an indoor connected to an outdoor dog run.

MARK SEIB: But mostly the building will be enclosed so if there is barking during the night or whatever...

JEFFREY ZENTHOFER: When it's dark, everything will be shut down. They will all be inside. There won't be any dogs out after dark. I do plan on doing spray foam so that will help with the noise.

MARK SEIB: And you're making drop off and pickup 7 a.m. until 6 p.m.? I'm assuming that is seven days a week.

JEFFREY ZENTHOFER: Yes.

LARRY WILLIAMS: You're saying possibly 40 kennels inside? What are you planning to start out with?

JEFFREY ZENTHOFER: I was planning on finishing one side and that will be 20 kennels. Then if I need more, then I will have room on the other side to build 20 more. The cap will be 40. Like I said I am doing a big enough building to where I can have an inside dog park and then if the weather is not permitting then they won't have to go outside.

LARRY WILLIAMS: Is it one dog per kennel?

JEFFREY ZENTHOFER: Yes.

KEITH SPURGEON: It shows two outside play areas, but initially you will just have one?

JEFFREY ZENTHOFER: Yes, on the right side. I'm going to finish that 20 and the outside play area and still have an inside area.

LARRY DROEGE: You won't have any new entrances on State Road 69? You'll be using your existing driveway?

JEFFREY ZENTHOFER: Yes. It's actually paved right up to... You can see it on the drawing. Right next to it I have a concrete pad which is actually like 44' x 88'. In between that concrete pad and that pole barn is like... Well to the building is 90' but in between that is 44' x 44'. I believe that is plenty of room for people to come in and pick up and drop off. If not, we were talking about doing a circular drive where you come in that way and you kind of go out... You see that first pole barn? It's actually a lean to that's closest to the highway. We will still use the same existing entrance to the highway.

LARRY WILLIAMS: I assume you have your permits from the State?

JEFFREY ZENTHOFER: Not yet. We were just waiting on the Special Use approval. We will move forward with everything else after that.

MARK SEIB: Is your sign going to be lit?

JEFFREY ZENTHOFER: It will be a directional light.

MARK SEIB: If you have a lighted sign, it takes a special permit for that.

JEFFREY ZENTHOFER: It's not going to be a sign that lights up from within.

MARK SEIB: Even if you have a light on it.

JEFFREY ZENTHOFER: Ok. Then no.

ATTORNEY BETH MCFADIN HIGGINS: On Home Occupations there are limits on where the sign is and the size of it and that cannot be lit. This is a Special Use. It's just a little bit different on the Home Occupation.

MARK SEIB: Ok. I would suggest you get with Mindy and make sure the requirements are met so you don't get into trouble with that if there are any additional requirements.

LARRY WILLIAMS: Are there any further questions from the board? Hearing none, you may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application? 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 application up for comments, discussion or action by the board.

Larry Droege made a motion in the affirmative to approve Docket #23-09-SU-BZA with a maximum of 40 dogs. Motion was 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 get a letter from the office stating that it has been approved. Since you are constructing a building with this, you will need to come into the office to get your Improvement Location Permit, but since you have to go to the State to get approvals, you won't be able to get any permits from our office or the Building Commissioner until you meet all of those requirements.

JEFFREY ZENTHOFER: Ok.

SPECIAL USE:

DOCKET NO: 23-10-SU-BZA

APPLICANT: Josh Hood, Wessler Engineering

OWNER: Posey County Regional Sewer District

PREMISES: Part of the Southeast Quarter of the Northwest Quarter of Section 21, Township 5 South, Range 12 West, lying in Robinson Township, Posey County, Indiana, containing .383 acres more or less. More commonly known as Off Highway 66, Wadesville, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF Applicant requests a Special Use to build a 14' x 28' booster station in an R-1

CASE: (Residential Single-Family) Zoning District Section 153.042 (B) (2) Use Unit 3 Public Protection and Utility Facilities, 153.148 (B) (9) 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 the requirements for notification per the statute.

JOSH HOOD: Wessler Engineering, 5401 Vogel Road, Suite 410, Evansville, Indiana. This is for the Wadesville and Blairsville sewer project. This is the booster station that helps regulate pressure between Blairsville kind of north and east of Indiana 66 and everything south of that going to the plant. It's a 14' x 28' building with a pump and tank inside of it. It's what helps regulate that pressure.

LARRY DROEGE: Josh, you were with us before, so tell us what has changed. You have a little more acreage and a different location it looks like.

JOSH HOOD: Yes. Last year we were on the property directly behind a home. I believe our fence was within about 10' of that home. I don't think anybody realized that until we got out into the field and looked at it. Since then the property owners made the recommendation to swap properties from that one to one that is adjacent to the southwest. It gets us away from residences more and provides a little more space and be more flexible if we need to. That's really the big thing is getting away from homes.

LARRY WILLIAMS: How close are you to the nearest home now?

JOSH HOOD: Probably about 80 to 100 feet. There is a business, I believe it's a consignment shop, directly north of that property but my understanding is that it is only open during normal business hours. So it wouldn't be disturbing anyone.

RON FALLOWFIELD: I agree that this is a much better location.

MARK SEIB: Josh, how big is the lot?

JOSH HOOD: The lot is .383 acres. It's 70' x 240'.

MARK SEIB: And you are wanting to put a 14' x 28'... Where are you going to locate that at on that lot?

JOSH HOOD: It's on the northern part of that property. The beginning of the building starts 30' south of the property line.

MARK SEIB: So you're at the north end of the property line.

JOSH HOOD: Yes.

MARK SEIB: This is a booster pump that's going to be maintained inside of the building, right?

JOSH HOOD: Correct.

MARK SEIB: What kind of DBAs will you be generating off of that?

JOSH HOOD: I've asked the manufacturer and they couldn't give me an exact number. Doing my own research, I'd put it between 70 and 80. The examples I got was between a dishwasher and hearing city traffic from inside of a car. It will only run twice a day. The cycle is a minute long. In the morning when people are using the water more is when it will kick on and also in the evening on a normal basis.

MARK SEIB: So you are anticipating only twice a day, a minute at a time?

JOSH HOOD: Yes.

MARK SEIB: The closest home is to the northeast on the corner of your lot. That makes it a little bit more suitable location. Do you have right of ways for the piping and everything to come into that property?

JOSH HOOD: Yes. The property owner that transferred the property for the booster station, they own all those properties as well so we've got an easement from Stierly and it wraps around the property on the highway and it comes south and goes over to it.

MARK SEIB: I see your lines. Ok.

LARRY WILLIAMS: Are there any further questions from the board? Hearing none, you may have a seat. We will now open this application up for public comment. Is there anyone here wishing to speak for or against this application? 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 application up for comments, discussion or action by the board.

LARRY DROEGE: I am a lot more comfortable with this application this time. It's a much better location.

Mark Seib made a motion in the affirmative to approve Docket #23-10-SU-BZA. Motion was 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 need to come in to get your Improvement Location Permit.

ADMINISTRATIVE APPEAL REQUEST BY ROBERT AND DEENA STOLZ

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

ATTORNEY BETH MCFADIN HIGGINS: Let me set the stage before the Stolz's come up because you don't usually have these appeals. So this is just a little bit different than what we just spent the last two hours and five minutes on. This is an Administrative Appeal. This is authorized by your Zoning Ordinance and State Statute. So there's a procedure that is set forth on that. In addition, the Stolz's will receive a fee invoice because there is a \$50 fee for an Administrative Appeal under the rules adopted by the Area Plan Commission. This is a review of a decision from the Executive Director of the Area Plan Commission. So if you think of it this way on your Special Use sheet that first question is always does the Zoning Ordinance authorize this as a Special Use? So that is just kind of where we are at. This is an appeal of a decision about the Executive Director indicating that there was no basis for a filing. So we are not in to facts of the case and all that that you've just spent time going over with regard to that. You will be asked to either affirm, modify or rescind the

Executive Director's decision that was given concerning a potential application. Your review on this by statute indicates that you are to review the decision based on the information that was available at the time the decision was made. So you would look at the record from that. The Statute requires that you are provided with a record and that record is what was certified and began on April 13. The decision was made on the 19th. The Request for Review was made on the 20th. So you are dealing with April 13 through April 20. That is the record and you received that, as required by Statute. A copy of that record was also provided to the Stolz's. In addition to that you got a second certification for just additional materials that came in and after April 20. That's why that was certified separately because the Statute requires that you look at it and base your decision on what information was available to the Executive Director at the time the decision was made. Remember I requested a copy of just the Nonconforming Use section from which the appeal was taken. That was also provided to you. The procedure would be set forth in your rules. The Stolz's would come up and make their statement concerning their desire for the Administrative Review and why they think that was an incorrect decision by the Executive Director. It is noticed as a public hearing so any comment would be made. This is not in favor or against like your Special Uses, it's just relevant comment with regard to the decision that was made on whether or not an application could have been filed. Then the staff would give a report at that point. Then you will have discussion, make your decision. The board is required to put that in writing within five days. You have to make the decision tonight. But it is required to be reduced to writing within five days and I will prepare that. We will not ask the Executive Director to prepare that. That is the procedure.

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

DEENA STOLZ: Deena and Robert Stolz, 5246 South Bohleber Road, Evansville. It's Posey County but we have an Evansville address. I feel it is kind of important to let you know in order of how things went about and why we think this decision was inappropriate. Bob and I are lifelong Posey County residents, taxpayers, Bob is an Evansville firefighter, I work for Mead Johnson in Evansville. He's an engineer and has been a home inspector for more than twenty years. For just a little background information, we own about four acres of land on Schroeder Court which is a gravel lane off of Ford Road in St. Philip. Those four acres is divided into three lots. Each lot is a little over an acre. Each lot has water, gas, electric, and sewer. For the past 30 years we would lease out a lot to a homeowner with a mobile home to live on. At one time we actually owned the homes and rented the homes. Now we just own the land and rent the land out. Schroeder Court has seven home sites.

ROBERT STOLZ: There are six manufactured homes. Two of those are double-wide manufactured homes. The other four are single-wide mobile homes.

DEENA STOLZ: I've printed out an aerial view of the land and put on each lot what kind of home was located on it. What kind of started all of this is we had a tenant who was preparing to move, so I looked up the regulations regarding what are we needing to do to replace the home. The regulation that I found on the website said any mobile home which existed on the effective date of this ordinance, which ours did, and lies in a district that no longer permits a mobile home by use of right or special exception, which this does, may continue as a nonconforming. However, if the mobile home is replaced it shall be of equal size or meet the minimum livable floor area whichever is greater and the existing mobile home shall be removed from the lot. That's the whole paragraph and that's what we worked with. So we removed the old home from the property, we found a renter, Sherry Walker, with a very nice new home who wanted to rent the land. The new home was the same size or bigger like the ordinance required. We told Sherry she would need to contact the Area Plan Commission to get a permit to move her home onto the property. In all the years that we've had these, we've always got permits and always done by the book. Nothing was tried to be done backhanded or... Anyway it was all done legally. She called the APC office to get the permit and was told she could not get the permit and that mobile homes are not allowed in R-1 zoning. So she called my husband and he said we have a nonconformance so it's ok so I'll call down there and talk to them. So he called again and he was told, I'm not sure if it was Mindy or Becky that

he talked to, that no you cannot put a mobile home on this property. So then on April 13 I sent Mindy an email and I copied the nonconformance part of the statute that we had seen and said why does this not apply to what we are doing? She replied via email and said that because we moved the old home out before moving the new one in we lost our nonconforming status. I asked her a couple of things there. I asked her if she could show where it says that in the statute. She never answered that. So I don't know if it's in there or not. I never found it. It doesn't make sense that you would have to move a new home in before you move the old home out because they are going to use the same footers, they are going to use the same utilities, the same hook ups and it's probably going to sit in the same place. So it doesn't really make sense that you would move a new home in before you move the old home out. But that is what was sited as the reasoning. I emailed her again that day asking for clarification, making sure that I understood what she said and asked if she could guide me on the next steps we needed to take to obtain a permit. And I said if we have absolutely no recourse for obtaining a permit, can you please put that in writing. I didn't receive a response that day so the next day I emailed her again and said could you please look at our response. The reason I was in a hurry because that day was the last day to get on the agenda for this board. We weren't sure what the process was. So on the 18th, four days later, Mindy responded that she was waiting on a response from the attorney and she would let me know when she received one. Then on April 19, five days later, she emailed me that the attorney had sent her findings and agreed with Mindy's initial response. I emailed back to her and asked again that I couldn't find the verbiage that said that I had to move... that I had to move a new home in before I could move the old home out, or I had to get a permit before I moved the old home out. We really felt that that was a technicality, that it is not stated in there and that any reasonable citizen that was reading that statute would not read that in there. So I responded to Mindy and asked her for the name of the city attorney to share with our attorney if we chose to retain one and asked her what we needed to do to get on the agenda. She said what agenda do you want to get on and what for? I said because we disagree with the decision and we felt like we followed the regulation in good faith in the manner that it was written and that we wanted to discuss the decision with the board. She responded that the attorney was Beth McFadin Higgins and we should have our attorney contact her. So on April 14 I reached out again to Ms. Bourne asking how do we begin the appeals process. Is there a specific form we need to file for this appeal? Is the email from you with the quote from the attorney considered a decision as mentioned in the Ordinance? How do we obtain contact information for the secretary of the board because in one part of the regulation it mentioned you needed to file something with the secretary of the board. I said how do we get that information. When does the ten days start before we can file an appeal? Is there someone that can guide us through this process, like a public advocate? Since we were appealing Mindy's decision, I didn't feel that she was necessarily the person so guide us through the process. I said obviously we don't want to pay for an attorney until we've exhausted our appeals with this board but we also want to ensure that we are being guided accurately and fairly through the process and my previous questions about our next steps have been ignored. We are in good faith trying to navigate this system correctly and secure the continued use of our property as we've used it for the last 30 years. From that point forward we received not further emails from the APC office.

ROBERT STOLZ: That was over approximately three weeks and no response.

DEENA STOLZ: So since we didn't receive a response, on April 20 I reached out to Randy Owens who was on the board. We knew him because he was the former pastor at our church and he responded that he had only been on the board a few years and has never encountered this situation. It is way outside my expertise. My only recommendation is that you call the APC and talk to either Mindy or Becky. We had already tried that. In these emails we had also called the office several times. Lish Denning was fabulous and she would take our messages, but Mindy nor Becky would return our calls. On April 26 I reached out to Trent Van Haaften, who someone told me was the board attorney and asked him again what our steps should be, what is the appeal process, what do we need to do to move forward. I did not receive a response from him. On May 11 we attended the APC meeting. Before we were even allowed to speak, kind of like tonight, Ms. Higgins jumped in and made a statement to the board clarifying what we would and would not be allowed to do, that we would not

be allowed to speak, we would not be allowed to tell our case to any of you on the board. I hope that went for both sides. I think I would be naive to think so, but I hope it did. We were told to come back on June 8 and we can tell our case then. So from April 14 until May 11 we had zero contact from either the APC or the attorney. During the May 11 hearing I asked that some documents that I had copied and brought for the board members be included into the official record. I gave those to the attorney and she said they would be entered into the record. I asked that I be copied on the email that was sent to the board members so I could see what documents were sent. I wasn't copied on the email. I did receive on the 25th an email from Becky Wolfe showing me what was in the official record, it did not include the documents that I requested. So I sent Mindy an email and said the documents we asked to be in there were not included. She emailed back and said that they were and that they just weren't included in what was sent to you. I don't know if that is the case or not. I also sent an email to Beth Higgins in response to an email she sent telling us about the hearing and the appeal filed on our behalf. I asked that we be copied on the emails, we were not. I also asked how we should pay for the ad that was placed in the newspaper. We were told that we needed to put in... I asked if we needed to put the ad in or do you do that, how do we pay for that. As usual, I got no response whatsoever from her office. I know this is a lot of information. In summary I would like you to know that my husband and I followed the regulation the way we read it, the way we interpreted it and the way I think any reasonable person would have interpreted it. I don't think anybody would be expected to interpret the implied stipulation that she used to deny even the opportunity for us to apply for a permit. I think it's obvious that the goal of these regulations is to get rid of single-wide mobile homes in Posey County. That's been a pretty strong public outcry since this came about in 2012. I wish I had paid more attention back then because I think it's unfortunate that that seems to be the goal. I think the consequence you might not have thought about is by not allowing people to place those homes, you're robbing them of a chance to better themselves. And people that do have mobile homes on their property are going to leave them there forever and they are going to sit there and rot because they are afraid to move them out. If they can't afford to build a house, then that is what they are going to live in. I would also like to point out that the APC office is the face of this board. How people are greeted and treated in that office determines how they come into these meetings. If you are treated poorly, you're refused assistance, you're ignored, you're going to come in here frustrated. You are going to come in here unhappy. And it's going to make these meetings a lot less fun. I can promise you... like I said, I work at Mead Johnson, if I refused to perform duties of my job, I wouldn't have a job. And for an attorney to silence a complaint after ignoring that persons request for assistance, might be a good strategy in court, but I think it's a pretty poor etiquette. This whole situation could have been handled a lot differently and had a completely different outcome. Ms. Bourne could have explained that she interpreted the regulation differently than we did and said this is how it would be interpreted in the future. There would have been a lot less stress for all of us. We've been going through several months of this now that I think is pretty unfair in the way we have been treated. Even tonight with the whole jumping in front of us making sure we are only allowed to say what she wants us to say. I think it's pretty poor.

ROBERT STOLZ: We are lifelong Posey County residents. The home we live in, four doors down from us and we have no problem with it. It's a single-wide mobile home. Neil Bohleber, a great kid, has been there as long as we have had our house there. We don't have a problem with that. It's not just that we are trying to do it, we don't have a problem with other places in our back yard.

LARRY WILLIAMS: Thank you. Are there any questions? Have a seat. At this time we will open the floor up for public comment. Is there anyone here wishing to speak?

JENNIFER NEWCOMB: 11021 Country Homes Drive, Evansville 47712. I would just like to speak for them. They are excellent people. I agree there is no reason... I like in a double-wide myself. I don't see any reason why I should be treated differently and everyone needs a place to live. Bob is a home inspector. He's

not going to allow a home to be moved in there that is not up to code. He has experience in that actually and was trained on that.

LARRY WILLIAMS: Thank you. Is there anyone else wishing to speak?

SHERRY WALKER: I'm the one that is wanting to put my home out there. I took some pictures and I do understand that the rules and the pictures don't explain it, but I have a beautiful home. I've put a ton of money into it and I keep it immaculate. The mobile home park where I live someone else bought it out and they have raised my rent two times in a year. It's already up to \$500 a month. Which for me I don't make a ridiculous amount of money, I work in a courthouse, I work in the courts in Evansville. My place is beautiful and I love it and I think it looks as good as anybody's home. I don't know if you would care to, but if you would look at the pictures of it and maybe that would help you to know that I am not putting a dump in there.

LARRY WILLIAMS: We can accept the pictures, but we will have to keep them.

SHERRY WALKER: That's absolutely fine. And also in addition to this, if I get it out there we are going to take off the deck and put a completely new beautiful deck all the way down the side of it and more vinyl fencing. Everything on it has been redone. I keep it power washed a couple of times a year. I power wash my vinyl fence a couple times a year. I thought maybe it would make a difference. I would just like for you to look at them.

Ms. Walker presented the photos to the board.

ATTORNEY BETH MCFADIN HIGGINS: Exhibit 1, 5 pages, Sherry Walker.

LARRY WILLIAMS: Is there anyone else that would like to speak?

RICHARD DESOUSA: I use to live at 2612 Stierly Road. I bought the place from Ray Roedel years ago. Now the single-wide trailer is in bad repair and I wonder if its sitting there as Mr. Stolz said going in disrepair because they can't move it out without it no longer being available to put a single-wide back on there. I can sympathize with their frustrations dealing with the courthouse and not getting responses also. I think she was very informative to the board on her presentation and her stress trying to maintain their property that they had now for over 30 years. I think that should be considered by the board.

LARRY WILLIAMS: Is there anyone else wishing to speak?

HOWARD WELLS: I own Wells Homes in Evansville, Indiana. My parents started that business in 1949. I bought it in '89. We've sold hundreds of homes, thousands of homes, sectional homes and single, 16 x 80s. They are not easy to move and they are not fun to move. You have to have specialty equipment and we've never moved a new home in on somebody's lot when the old home is still there. It's just a physical impossibility. You don't have room to work. I don't think that is a realistic expectation to move a new home in before the other one is completely gone and things are cleaned up and everything is ready for the new home.

ROBERT STOLZ: With me being a home inspector, I went for three-day training after the November 6, 2005 tornado that killed several people in Evansville, Indiana. The main reason for those deaths were due to some of the mobile homes that were not properly anchored. That is what would happen if you move one mobile home in and the existing one is still there. We have plenty of storms and tornadoes around here and maybe me being a fireman and a home inspector, that plays into my thinking. You don't leave one sitting there not anchored. That's unsafe for the public.

LARRY WILLIAMS: Is there anyone else wishing to speak? Hearing none, we will close the public portion. We will now have a report from the Executive Director.

MINDY BOURNE: I denied a request for the replacement of a mobile home on property owned by Robert and Deena Stolz. A request was made to place a mobile home upon a lot which at the time of the request, no mobile home existed on the lot. A mobile home had existed on the lot previously but no permit had been obtained for the removal of the mobile home and the lot had been left vacant for approximately one month. The request to place another mobile home on the vacant lot was denied based upon Section 153.208(B) of the Zoning Ordinance, with the full language of 153.08 being as follows: Any mobile home which existed upon the effective date of this ordinance and lies in a district that continues to permit mobile homes by use of right or Special Exception, but does not meet the minimum livable floor area requirement of this ordinance, may continue as a nonconforming structure. However, if the mobile home is replaced, it shall meet the minimum livable floor area of this ordinance; and the existing mobile home shall be removed from the lot. Sections 153.020 (General Use Provisions) and 153.032 (Use Regulation – “A” Agriculture District) were also relied upon when considering the use and zoning district of the subject land.

Timeline and Communications Regarding Request and Decision. On April 13, 2023 Becky Wolfe answered a phone call into the office from Sherri Walker, owner of a mobile home, wanting to place it at 9023 Schroeder Ct., she does not own the lot. It was noted the site is currently vacant and they stated the existing mobile home was removed about two months ago. Ms. Walker was told the existing mobile home must be on site to be considered “nonconforming/grandfathered” and ask for replacement. Robert Stolz, the property owner, then called into the office and spoke to Becky Wolfe and requested to place the mobile home at 9023 Schroeder Ct., it was found the lot was vacant and the previous mobile home had been removed from the lot about a month ago. Mr. Stolz requested a copy of the Zoning Ordinance. Becky Wolfe emailed him Section 153.020 and 153.032 of the Zoning Ordinance (Email is provided in record).

On April 13, 2023 an email was sent to Mindy Bourne, Executive Director from Deena Stolz asking about replacing nonconforming/grandfathered mobile home. As of April 13th the mobile home was not existing on the lot. The mobile home was removed from the property before seeking request to replace. There was no documentation/dates to establish its grandfathered/non-conforming status.

Section 153.208 states “if the mobile home is replaced, it shall meet the minimum livable floor area of this ordinance; and the existing mobile home shall be removed from the lot”. Historically, the interpretation and application of Section 153.208 by Area Plan has been once a mobile home has been removed from a property without the contemporaneous replacement of the removed mobile home, the grandfathering status of a nonconforming use has been lost or voided.

After these initial communications, I consulted counsel for BZA. Based upon these consultations, I emailed Ms. Stolz on April 19, 2023 stating the suggestions of counsel that “Section 153.208 regulates Nonconforming Mobile Homes. The existing mobile home has to be in place when replaced with a mobile home of equal size or meet the minimum livable floor area, whichever is greater. Removal of the non-conforming mobile home without Improvement Location Permit for the replacement mobile home severs the nonconforming mobile home provision under Section 153.208”. This directive was consistent with what I told Ms. Stolz previously as well as the precedent and past practice in prior interpretation and application of the Zoning Ordinance.

In trying to confirm the actual removal date of the mobile home I contacted the Assessor’s office to get clarification on the status of the mobile home, regarding existence/removal and dates of such events. The

Assessor's Property Card for 9023 Schroeder Ct. does not show a mobile home listed on it, only two sheds are listed (Assessor's Property Card provided in record).

I was told by the Assessor's Office the mobile home was considered personal property since it is not owned by the owner of the real estate; therefore, it has a separate property card. I was also told by the Assessor's Office the mobile home still had taxes owed on it and they had not received a moving permit from the Treasurer's Office.

Since the circumstances presented by the Stolz' did not fit a nonconforming use based upon the interpretation of the Ordinance and the past practice of its application, I explored other options for the property to possibly provide a remedy for the Stolz' situation. However, I was not able to find an alternative because of the following findings: The lot is in a subdivision (Subdivision Plat is provided in record). The zoning of the property is R-1 (Residential Single Family) (GIS map is provided in record). Residential Subdivisions are only allowed in a R-1 Zoning District. Mobile Homes are only allowed in a RMH (Residential Mobile Home District) as a Use by Right or A (Agricultural) Zoning District with a Special Exception. (Appendix A: Use Unit 9 Mobile Home Dwellings). Therefore, a rezoning would not be allowed. Also, if a mobile home is granted a Special Exception, the Special Exception for the mobile home must be used by the owner of the real estate or by a member of the owner's family (Section 153.246---Definitions-Owner's Family).

From the initial call until the June meeting of the BZA there was no in person contact with the Stolz. All communication regarding this issue was through emails and/or phone calls. No documentation was provided by the Stolz such as site plans, documents regarding the presence and removal of the mobile home, or required permits for the removal of the mobile home and payment of taxes.

During the process of making this determination Ms. Stolz was told the information would be sent to the attorney for confirmation in the interpretation of how the ordinance has been implemented over time, to clarify there was no changes. During phone call and email communication the Stolz' indicated they had legal representation. In an email on April 19, 2023 2:17 pm to Ms. Stolz, I suggested the Stolz' attorney reach out to BZA's attorney regarding the issue.

LARRY WILLIAMS: Any questions? Discussion amongst the board? This is tough. The public portion is closed, sir. There may be some questions from the board, and we would then ask you to come back up.

MARK SEIB: The determination of whether or not the appeal is whether or not the information that the director had, we have to make a decision with that same information and would it had been any different. The question I have is there was no in-person meeting of any kind, is what I heard. It was all done by email and there were some phone calls. It started on the 13th. Beth, I assuming that the way it looks on the emails that on the 13th you were contacted as well about the situation?

ATTORNEY BETH MCFADIN HIGGINS: Whatever the record is.

MARK SEIB: Yes, that is what the record is showing. When we start with the process with trying to determine how the Ordinance is supposed to be read and interpreted. I do know the usual protocol is to contact the attorney, whether it be the APC or BZA attorney and ask for their clarification on as well for a determination. Sometimes that doesn't come back in a day. I understand that everybody is busy. The attorney may be in court. You don't know what the situation is. Sometimes it's not an immediate answer to a situation. I didn't see anything as far as the documentation, which is what we are supposed to be taking... with pictures or anything that shows that it was grandfathered to support that documentation as well. I didn't see anything going through asking if there was a permit for... the one picture shows a fence... whether there was an application

done for the approval of putting the fence up. The two sheds, I wanted to see if there was any kind of documentation to show a date or timeline when those were present. I'm just trying to find a timeline here and I couldn't find anything on that. I did make a site visit just to see what things were there. There is only one shed on the property at this present time. Going back and looking at the record, this is a subdivision that was established in 2007. If I'm not mistaken, according to the property card, the Stolz owned the property in 2005.

Someone was speaking from the audience and could not be heard.

MARK SEIB: The subdivision that is currently there now is what is being enforced as established in 2007. Is that what it is, in 2007? This is stuff I have been researching and trying to find.

MINDY BOURNE: The subdivision was established in 1987.

MARK SEIB: Ok. So I'm assuming, Beth, you did give an opinion on what your interpretation was?

ATTORNEY BETH MCFADIN HIGGINS: Yes, I emailed and my email was included in the record.

MARK SEIB: With the trailer being removed from the property, that does trigger that situation. Is that the only single-wide trailer that has been on that property since 2012?

DEENA STOLZ: Yes.

MARK SEIB: So you are answering yes to that being the only trailer on that lot since 2012.

ROBERT STOLZ: We believe it was put in about 2009. As far as the permitting, Posey County is not always the most up to date on some of that cause I don't know how we would have got electrical permit. We had Bud Elpers come out and inspect it for Posey County. If there was an issue with permitting, then I would have thought that would come up then.

MARK SEIB: We have an electrical company that is in the county that does not require a building inspectors stamp on it.

ROBERT STOLZ: But Vectren at that time did and we had it inspected by Bud Elpers.

MARK SEIB: I understand that. I'm trying to establish a timeline here if I could. I'm trying to figure out when all of these things took place, how long, any proof we had that was grandfathered through the process.

DEENA STOLZ: It doesn't show up on the property card because we didn't own the mobile home. Because that is considered personal property...

MARK SEIB: I was looking at the property. Not the home, but the land.

DEENA STOLZ: It won't show there's a home on there because we only pay the taxes on the land.

ROBERT STOLZ: If there's back taxes owed on a mobile home, we will glad to pay that. That's not an issue for us. We are willing to make it right for Posey County and pay the taxes if that is an issue.

MARK SEIB: This doesn't necessarily affect the decision, but I think it does on the timeline. I think the Stolz's are very concerned about the timeline and the responses that were made. Anytime that we at the office

hear the word attorney that you're consulting or getting an attorney or whatever, that automatically triggers that the office can no longer speak and that it ends up with the attorney speaking for the office and for the applicant. The way I understand from the record, that was mentioned twice. That may explain some of the lag. And also the lag waiting for the information from the attorney to make a decision in reviewing that section.

LARRY WILLIAMS: As far as the trailer being grandfathered and you have to put one in before, I think that the trailer that existed there before and it was replaced with a conforming trailer within two to three days, I don't think anyone would say anything about that. As I understand it was a couple of months or even a couple of weeks. The Ordinance states that it has to be replaced right away.

Someone was speaking from the audience and could not be heard.

ROBERT STOLZ: We asked several times from Mindy and the attorney for someone to please show us cause we may have missed it. We didn't see anywhere where it said that. To this day I haven't seen it.

ATTORNEY BETH MCFADIN HIGGINS: I think just for clarification, they were provided a copy of the nonconforming... actually I think they already had it. I think they sent it to Mindy. It's that section in the language where it refers to "and the existing mobile home". So when they get this request to put a grandfathered replacement in, it says "and the existing mobile home shall be removed". But when the request came to put a grandfathered mobile home in, there was no existing mobile home.

DEENA STOLZ: But it doesn't say the existing mobile home has to sit there. I mean there was an existing mobile home. There's been a mobile home there for 30 years.

ATTORNEY BETH MCFADIN HIGGINS: I'm just explaining the reasoning that has been used by the Plan Commission.

MARK SEIB: And with that language that is within the Ordinance, basically the existing mobile home, the existing was already gone for a period of time.

DEENA STOLZ: The existing was there when we decided to start the process and when we read the Ordinance and it said the existing mobile home has to leave, it has to be a certain size, we thought ok we're good, her home is of the correct size and we will get the old one out of there and get the new one in there and we're good. I don't think a reasonable person and not an attorney would read it the way that you're interpreting it. I think that it was not unreasonable for us to assume that we have to move the old one out. My reading of that meant that you can't pull a new one in and leave the old one there and move your son behind you. That was my reading of that.

ROBERT STOLZ: Just for reference, last month when we were here at this meeting, there was a couple that were getting a zoning permit in Cynthiana I believe, one of the buildings on there was never permitted and I believe all this board did was have them post permit it. There was no problem with that back a month ago with that couple. They were zoning it commercial.

LARRY WILLIAMS: This board does not deal with zoning. We don't change the zoning.

ROBERT STOLZ: Maybe it was the Area Plan then. We sat in on both meetings and they blend together after all of this. We are just trying to use our land like we've been using it for the last 35 years.

DEENA STOLZ: We felt that was a reasonable decision. They had a building that was never permitted. It would not have been reasonable to expect them to tear it down. You allowed them to go back and get the permit after the fact. We felt that was reasonable. We don't feel like this is being reasonable by refusing to even allow us... One thing that he mentioned is that they had no paperwork from us, no plats or information. That was because we were never allowed to file for a permit. So our initial phone call was what do we need to do to file for a permit. From that point forward was you cannot file for a permit. So no, where would we file paperwork, where would we bring things. We weren't allowed to do any of that. That is why there was no information.

ROBERT STOLZ: It was never expressed to us that it mattered if we did the emails versus coming into the office in person. If that would have been a deal, we would have done that.

MARK SEIB: I was just trying to find out if there were extra conversations before that. Obviously what was supplied by you as well saying the contact was via email on the 13th. And the permitting I was referring to was the fencing. Anytime you put fencing up, you have to have a permit as well. We were trying to set up a timeline. Anytime you place a utility shed or shed on a property, they are supposed to be permitted as well. I was just trying to set up a timeline. I'm not giving the judgement saying there was a violation. I'm just trying to establish a timeline to see when that trailer was put into place because there was no documentation that trailer was in that spot in order to be grandfathered in.

ROBERT STOLZ: Wouldn't that be proof that Bud Elpers came out and inspected the electric? Shouldn't that be proof that Posey County was aware that the trailer was there? I would think there was documentation of that.

MARK SEIB: I think that would have added to your case, but I don't see that in the documentation that we have.

LARRY WILLIAMS: She didn't have that information when she made the decision.

ROBERT STOLZ: She never even mentioned about whether it was permitted or not. That was never even brought up.

MARK SEIB: I think the question was grandfathered.

ROBERT STOLZ: No, I mean the previous mobile home was permitted or not.

MARK SEIB: Well, if you're grandfathered you don't have to have the permit. You're grandfathered because you're there before the Ordinance took effect. We're just trying to find out if that was truly grandfathered. The documentation that you submitted...

ROBERT STOLZ: We submitted no documentation because she shut us down.

MARK SEIB: No, the process that you did when you submitted the emails and all the other things you submitted with it, that's all part of the documentation. Ok?

DEENA STOLZ: That's part of it. It wasn't all included though. That I'm aware of. I don't know. I only received part of the record.

MARK SEIB: Again, in here we are trying to make a determination with what was submitted.

ROBERT STOLZ: Ok. So, going forward can we not provide that and make this right?

MARK SEIB: The Administrative Appeal that you are asking for says did Mindy make the right decision. Did the Executive Director make the right decision in what she told you. That is what we are judging today. We are not judging whether you can other additional information. We are taking what was done between that timeline and only between that timeline and what was submitted. The courts require, because of this situation and the State Statute, that we have to go between that timeline.

ROBERT STOLZ: So we are expected to move one mobile home out and one in within a few days? But yet Posey County... or no response from Posey County from either the attorney or Mindy Bourne... three weeks with no response, that's acceptable? So we are expected to jump through hoops within two or three days, but Posey County can drag their feet as long as... I mean that's what it's seeming like to me. And that's frustrating to me as a taxpayer in Posey County for 30 plus years.

MARK SEIB: I think what we are trying to establish here is that the communications that went on with the Executive Director had to make a decision off of is in compliance with the Ordinance and the requirements of that. So we can't say we can go and get Bud Elpers permit next week or tomorrow and pull that in and use that as evidence. We have to use what is submitted and what was done during that timeline. Just like if she wasn't even involved in this, if you came to me and said the same thing down through that line, what would have been my reply. That is what we have to take is what evidence submitted and the information that was submitted during that timeline.

ROBERT STOLZ: I definitely think if it was a stick-built home question, it would not have been an issue.

MARK SEIB: No, it's an R-1 Residential home and a stick-built home is fine. A trailer park is required for trailers.

ROBERT STOLZ: We don't have a trailer park.

MARK SEIB: And that's what I'm saying is that it was grandfathered in to allow you to have a trailer in an R-1 Zoning District. If you wanted to come back and instead of that single-wide trailer and put a double-wide trailer in, you'd be granted.

DEENA STOLZ: The square footage is ok on the single-wide, it's 16' x 80'. It's bigger than the one that was there before.

ATTORNEY BETH MCFADIN HIGGINS: Just for clarification, I believe they said the first contact was on April 13 and I think Mindy's decision was April 19. So it was that timeline.

ROBERT STOLZ: But the delay in replies for questions we had I think is totally unacceptable for three plus weeks either from Mindy Bourne or the attorney.

MARK SEIB: The 13th is when you started, and the 19th is when you got your answer.

DEENA STOLZ: No, the 13th is when we started, and the 13th is when she said no you can't do it. Then I emailed, asked and the 19th is when she said no, I talked to the attorney and you can't do it. The first time we called was when we were told no you can't do it. So, if you want to actually take only the documentation from

her decision, from our first point of contact to her decision, it was ten minutes in a phone call. She made her decision on that phone call and said you cannot do it.

ROBERT STOLZ: With Sherry Walker. We are not asking to put a mobile home on a lot where there was no mobile home. A mobile home has been there for 30 plus years.

LARRY WILLIAMS: But when you asked to bring another one in, the existing one was not there. And I agree the ordinance is fuzzy.

ROBERT STOLZ: Right, it's very fuzzy and we are not attorneys.

LARRY WILLIAMS: And there is nothing we can do about that. That is the Commissioner's responsibility there.

ROBERT STOLZ: So you don't err on the side of the taxpayer?

MARK SEIB: No, no, no. The question is that it's an R-1 zoned area. The trailer was grandfathered in and permitted to stay there during the time. Next question is that if you are choosing to move it, which you didn't own it, the people that owned the trailer decided to move it is the way I understand it. Now I don't know how long it was between the time you got your rent and you didn't get rent, or whatever the situation was or whether you were notified. It never was said or done through this process. The thing that would have been the best situation, and because you are a renter, then you need to have some kind of communication that before they move that trailer, they need to notify you so that you could have made the call to APC...

DEENA STOLZ: But the ordinance doesn't state that. We were not aware of that. We read the ordinance before the mobile home was removed and it did not state that. So, yes, going forward we would make sure before anything was removed that we would do it the correct way. But we weren't able to do that at that time because we were not aware of that. And it does not explicitly say that in the ordinance. If it stated that and we didn't do it, I would agree with you 100%. But it doesn't. We read it to the best of our ability as lay people, not attorneys, and it does not state that.

ROBERT STOLZ: One of your Commissioners even agreed with us that it is not clear.

MARK SEIB: It doesn't matter what that means. What it means is what was presented at the time.

LARRY DROEGE: Yes, and for me that's the big stickler that the fact that Mindy, based on the information that she had...

MARK SEIB: Larry, are we done? I don't have any more questions for them. They need to have a seat.

LARRY WILLIAMS: Yes, if there are no more questions for them, they may have a seat.

LARRY DROEGE: For me, again, kind of an outsider looking at this for the first time and say look at the data and look at the information that's given us, the fact that there was really never proof of a trailer ever sitting there. Mindy didn't know if a trailer was there for a month or a year or was gone. So the information she was given, I don't see any other reason why you would make any decision other than the one she made. I hope there's an exit strategy here because it's... I think for Mindy's part, the information that she had, she made the right decision based on the ordinance and the documents that she had and the fact that we didn't have proof of when that trailer or even if the trailer was there.

DEENA STOLZ: How are we to know she is going to make a decision based on items we weren't asked for? There was nothing that was asked of us that we didn't provide.

LARRY WILLIAMS: We haven't asked any questions. I'm going to have to ask you to sit down. I understand your situation. If I were in your seat I would probably feel the same way. But the way the ordinance is written, I don't think we have any other choice in the matter.

Members from the audience were speaking and was not audible.

LARRY WILLIAMS: We are done. Is there any further discussion among the board?

LARRY DROEGE: What we are here to do is to evaluate Mindy's decision. And that's it. I know there's a lot of emotions. Our job is to decide based on the information she was given, I feel like she did.

Members from the audience were speaking and was not audible.

LARRY DROEGE: We are talking about the decision that was made. Regardless of whether you thought you should have been talked to quicker, or sooner or more often. You may have a valid argument, but that's not what we are here to evaluate and discuss. We are here to decide whether Mindy made the right decision. That's where we have to have a narrow focus. We've been all over the gamete here. There's been accusations made about how we hate mobile homes and that's about as far from the truth as you can get. We don't. But that is way off the scope of what we are sitting here tonight to try to decide and that is to evaluate the information that Mindy had, did she make the right decision based on the information. I don't have any reason to believe that she didn't. I think we have to confer with her decision just based on that information.

KEITH SPURGEON: And I think you said it well, there's been a lot that has been said. We have to focus on the very narrow field here. I understand how you may feel you've been treated, whether fair or unfair. I don't think that anybody was doing anything intentionally nefarious. I don't doubt that at all. That wasn't the case. It comes down to though what does the ordinance say. Well, that piece of property is no longer zoned for mobile homes, single-wide mobile homes. It was grandfathered while the mobile home was there. If somebody was living there and it got torn up by a tornado, that's when the grandfather would come into effect, and they could replace that then. But when Mindy gets a call... The fact is that piece of property, and we're not talking about all of Posey County and whether we love mobile homes or not, the bottom line is that piece of property no longer is allowed to have single-wide mobile homes on it. So when she gets the question about can I bring a new one in, it's vacated and it's lost the grandfather status then. So for her the only decision is no you can't do that, it's no longer zoned for a mobile home. I'm sorry, but it's not zoned that way. It's been vacated.

MARK SEIB: You can put a double-wide on the property and it would be alright. The single-wides are what is restricted.

Members from the audience were speaking and was not audible.

Ron Fallowfield made a motion in the affirmative to support the Executive Director's decision. The motion was seconded by Keith Spurgeon. **Roll Call Vote (5-0) Yes. Motion carried.**

ADDITIONAL BUSINESS: None

CITIZEN CONCERNS: None

ADJOURNMENT: Ron Fallowfield made a motion to adjourn the meeting at 8:14 p.m. Motion was seconded by Mark Seib.

A handwritten signature in blue ink, appearing to read "Larry Williams", written over a horizontal line.

Mr. Larry Williams, Chairperson

A handwritten signature in blue ink, appearing to read "Mindy Bourne", written over a horizontal line.

Mrs. Mindy Bourne, Executive Director

**POSEY COUNTY
SPECIAL USE VOTING SHEET**

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 23-06-SU-BZA

Mark Boheler - St. Philip Catholic Church

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

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.

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.

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.

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.

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.

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.

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

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

YES NO
0 5

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

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

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

YES NO
NA

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.

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

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

YES NO
5 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 8th day of June, 2023.

POSEY COUNTY SPECIAL USE VOTING SHEET

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 23-0854-BZA

Michael Brunkel/Rev. Ed C. Schurer - St. Vincent's Catholic Church

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

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.

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.

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.

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.

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.

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.

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

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

YES NO
0 5

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

NA

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

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

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.

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

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

YES NO
5 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:

erect barriers to be placed in front of school for safety for
vehicular traffic - strength wall - subject to variance

*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 8th day of June, 2023.

**POSEY COUNTY
SPECIAL USE VOTING SHEET**

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 23-09-SU-BZA
Jeffrey A. & Golene S. Benhofer

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

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

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

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*	5	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.

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*	5	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.

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

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

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*	5	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.

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*	5	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.

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

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

YES NO

0 5

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

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

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

YES NO

5 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.

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

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

YES NO

5 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:

Maximum of 40 dogs

*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, 2023.

**POSEY COUNTY
SPECIAL USE VOTING SHEET**

Posey County Board of Zoning Appeals
Report of Finding Fact

BZA NO: 23-10-54-BZA

Gosh Wood, Unassisted Eng - Posey Co. Reg. Seewer District

HAS THE APPLICANT PROVEN BY SUBSTANTIAL EVIDENCE THE FOLLOWING:

1. The Zoning Ordinance authorizes the Special Use.

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.

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.

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.

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.

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.

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.

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

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

YES NO
0 5

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

NA

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

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

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.

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

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

YES NO
5 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, 20 23.

Excluded /
5 pages









