

**MINUTES**

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

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

**JANUARY 11, 2024  
5:00 P.M.**

**MEMBERS PRESENT:** Mr. Ron Fallowfield-Vice Chairperson, Mrs. Beth McFadin Higgins-Attorney, Mr. David Ripple-Interim Executive Director, Mr. Jeff Hoehn, Mr. Mark Seib, Dr. Keith Spurgeon, Mr. Randy Rankin, Mrs. Taylor Elmendorf-Administrative Assistant, Mrs. Savannah Axley-Clerical Assistant

**MEMBERS ABSENT:** NONE

Attorney Beth McFadin Higgins administered the Oath of Office for the three-year appointments of Jeff Hoehn and Randy Rankin before roll call.

**APPROVAL OF MINUTES FOR LAST REGULAR MEETING:** Mark Seib made a motion in the affirmative to approve the minutes of the last regular meeting as emailed. Motion seconded by Keith Spurgeon. **Roll Call Vote (5-0). Yes. Motion carried.**

**ATTORNEY 2024:** A motion was made in the affirmative by Mark Seib and seconded by Keith Spurgeon to retain McFadin Higgins & Folz as primary attorney for 2024. **Roll Call Vote (5-0). Yes. Motion carried.**

**ELECTION OF OFFICERS 2024:** Deferred until February meeting.

**RULES OF PROCEDURE:** A motion was made in the affirmative by Keith Spurgeon and seconded by Randy Rankin to accept the Rules of Procedure for 2024 as presented with the minor changes as emailed. **Roll Call Vote (5-0). Yes. Motion carried.**

**APPROVE 2024 MEETING DATES:** Mark Seib made motion to keep the date and time of the meetings the same as in 2023, the second Thursday of the month at 5:00p.m. Seconded by Randy Rankin.

**APPROVE 2024 FILING DEADLINE DATES:** Mark Seib made motion to keep the filing dates the same as in 2023, the second Thursday of the month for the following months meeting. Seconded by Keith Spurgeon.

**DESIGNATED NEWSPAPER:** Mark Seib made a motion to designate the Posey County News as media source for 2024. Keith Spurgeon seconded the motion. **Roll Call Vote (5-0). Yes. Motion carried.**

**SPECIAL USE:**

DOCKET NO: 23-15-SU-BZA  
APPLICANT: Stephen E. Utley  
OWNER: Stephen E. & Mary E. Utley  
PREMISES: Section 6, Township 7 South, Range 12 West in Marrs Township, Posey County, Indiana, containing 0.33 acres, more or less. More commonly known as Harbortown Lot 44, Mt. Vernon, Indiana. (Complete legal description on file on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests Special Use to place a residential storage shed in an (Agricultural) Zoning District per Section 153.032 (B)(2) Use Unit 2 Areawide Special Exception Uses, Section 153.147 (B) (14) Residential Storage Structure of the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

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

Mr. Fallowfield confirmed with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

No comments from the public.

Mr. Fallowfield confirmed with Mr. Ripple there were no emails, phone calls or letters.

Applicant sent email to office asking to defer until February meeting due to being out of town due to family issue.

Keith Spurgeon made a motion to table docket 23-15-SU-BZA to February 8, 2024 meeting. Seconded by Mark Seib.

**VARIANCE:**

DOCKET NO: 23-18-V-BZA  
APPLICANT: Tracy Russell  
OWNER: DTR Investments, LLC  
PREMISES: Part of the Northeast Quarter of the Northwest Quarter of Section 21, Township 5 South, Range 12 West, in Robinson Township, Posey County Indiana. More commonly known as 8480 Hwy 66, Wadesville, IN. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Applicant requests Variances for proposed Parcel #2, reduction of the required lot width from 100 feet to 70.3 feet per Section 153.089(A)(2)(a), reduction of the east side yard from 20 feet to 12.8 feet per 153.089(B)(2)(c), reduction of the west side yard from 10 feet to 0 feet per 153.089(B)(2)(a), and reduction of the south rear yard from 20 feet to 17.9 feet per 153.089(B)(3)(b). Variance for proposed Parcel # 1, reduction of the east side yard from 10 feet to 0 feet per 153.089(B)(2)(a) in a B-3 Commercial High Intensity Zoning District

under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County

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

Mr. Fallowfield confirmed with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Tracy Russell at 8480 Hwy 66, Wadesville, Lisa and Kelly Morow at 7364 Hwy 66, Wadesville. Spoke on behalf of application. A court order to divide the property, before it can be divided Variances need to be done.

No comments from the public.

Mr. Fallowfield confirmed with Mr. Ripple there were no emails, phone calls or letters.

Mr. Fallowfield opened the floor to the board for discussion or action.

Mark Seib made a motion in the affirmative to approve docket 23-18-V-BZA, the motion was seconded by Jeff Hoehn contingent upon lifetime written permission for maintenance of the common walls between buildings on Parcels 1 & 2 to be recorded, joint access easement at the front of buildings on Parcels 1 & 2 for the parking area and access/egress drives to State Road 66 to be recorded, and a joint access easement at the rear of the buildings on Parcels 1 & 2 to be recorded. The Variance Voting Sheet was read. Roll call vote (5-0) **Yes. Motion Carried.**

The Variance Voting sheet was read by David Ripple. Roll Call Vote (5-0). **Motion carried.**

**VARIANCE:**

**DOCKET NO:** 23-19-V-BZA  
**APPLICANT:** Klipschs Coffee, LLC by Ben Klipsch  
**OWNER:** Roger Wallace Etal  
**PREMISES:** Lots Seventy (70), Seventy-one (71) and Seventy-two (72) in Jones Enlargement to the City of Mt. Vernon, as per plat thereof, recorded in Deed Record 41. Page 432 in the Office of the Recorder of Posey County, Indiana. More commonly known as 1101 E 4<sup>th</sup> Street, Mt. Vernon, IN 47620. Containing 0.479 acre more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

**NATURE OF CASE:** Applicant requests a Variance for proposed dumpster enclosure in front yard per 153.086 (E)(1)(b) in a CG Commercial General Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County

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

Mr. Fallowfield confirmed with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Jim Morley Jr here to speak on behalf of the application 4800 Rosebud Ln. Newburgh.

The Applicant withdrew docket 23-19-V-BZA.

**VARIANCE:**

**DOCKET NO:** 23-20-V-BZA  
**APPLICANT:** Klipschs Coffee, LLC by Ben Klipsch  
**OWNER:** Roger Wallace Etal  
**PREMISES:** Lots Seventy (70), Seventy-one (71) and Seventy-two (72) in Jones Enlargement to the City of Mt. Vernon, as per plat thereof, recorded in Deed Record 41. Page 432 in the Office of the Recorder of Posey County, Indiana. More commonly known as 1101 E 4<sup>th</sup> Street, Mt. Vernon, IN 47620. Containing 0.479 acre more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

**NATURE OF CASE:** Applicant requests a Variance for off-street parking inside rear yard per 153.087(B)(3)(b) in a CG Commercial General Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County

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

Mr. Fallowfield confirmed with Mr. Ripple that the applicant met all the requirements for the notification per the statute.

Jim Morley Jr here to speak on behalf of the application 4800 Rosebud Ln. Newburgh.

No comments from the public.

Mr. Fallowfield confirmed with Mr. Ripple there were no emails, phone calls or letters.

Mr. Fallowfield opened the floor to the board for discussion or action.

Mark Seib made a motion in the affirmative to approve docket 23-20-V-BZA Motion seconded by Randy Rankin. The Variance Voting Sheet was read. Roll call vote (5-0) **Yes. Motion Carried.**

**ADDITIONAL BUSINESS**

David Ripple addressed the board regarding an amendment for board members to review how to handle corner lot Variances.

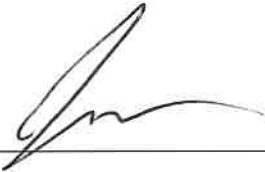
**CITIZEN CONCERN**

Greg Newman County Commissioner 6995 Briar Ridge Road, Wadesville, IN. Requested an extension in filing deadline to Wednesday January 17, 2024.

Mark Seib made motion to extend filing deadline to January 17, 2024 and seconded by Randy Rankin. **Roll call vote (5-0) Yes. Motion Carried.**

**ADJOURNMENT**

Keith Spurgeon motioned to adjourn. Seconded by Mark Seib at 6:12pm.



---

BZA Chairperson



---

Mr. David Ripple, Interim Executive Director

# VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 23-18-V-BZA



COPY

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

existing building no problems in

Ron Fallowfield	<input checked="" type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Keith Spurgeon	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	
Jeff Hoehn	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Mark Seib	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	<u>YES*</u> <u>NO*</u>
Randy Rankin	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*						0 5

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

Ron Fallowfield	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Keith Spurgeon	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	
Jeff Hoehn	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Mark Seib	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	<u>YES*</u> <u>NO*</u>
Randy Rankin	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*						0 5

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

one combined, court order separated

Ron Fallowfield	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	Keith Spurgeon	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	
Jeff Hoehn	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	Mark Seib	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	<u>YES</u> <u>NO*</u>
Randy Rankin	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*						5 0

4. Are these conditions general in the same zone?

Ron Fallowfield	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Keith Spurgeon	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	
Jeff Hoehn	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Mark Seib	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	<u>YES*</u> <u>NO*</u>
Randy Rankin	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*						0 5

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

near bldg. do

Ron Fallowfield	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	Keith Spurgeon	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	
Jeff Hoehn	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	Mark Seib	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*	<u>YES</u> <u>NO*</u>
Randy Rankin	<input checked="" type="checkbox"/>	YES	<input type="checkbox"/>	NO*						5 0

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

Ron Fallowfield	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Keith Spurgeon	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	
Jeff Hoehn	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	Mark Seib	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*	<u>YES*</u> <u>NO*</u>
Randy Rankin	<input type="checkbox"/>	YES*	<input checked="" type="checkbox"/>	NO*						

\*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 Variance:

is hereby granted 5-0 ( )

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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

VARIANCE VOTING SHEET

POSEY COUNTY BOARD OF ZONING APPEALS

Report of Findings of Fact

BZA NO: 23-20-V-BZA



COPY

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

*clear of landscaping*

Ron Fallowfield	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Keith Spurgeon	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	<u>YES</u> <u>NO</u> 0 5
Jeff Hoehn	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Mark Seib	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	
Randy Rankin	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO				

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

*improve due to lot*

Ron Fallowfield	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Keith Spurgeon	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	<u>YES</u> <u>NO</u> 0 5
Jeff Hoehn	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Mark Seib	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	
Randy Rankin	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO				

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

*residential to rear*

Ron Fallowfield	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	Keith Spurgeon	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	<u>YES</u> <u>NO*</u> 5 0
Jeff Hoehn	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	Mark Seib	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	
Randy Rankin	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*				

4. Are these conditions general in the same zone?

*unique*

Ron Fallowfield	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Keith Spurgeon	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	<u>YES*</u> <u>NO</u> 5 0
Jeff Hoehn	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Mark Seib	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	
Randy Rankin	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO				

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

Ron Fallowfield	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	Keith Spurgeon	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	<u>YES</u> <u>NO*</u> 5 0
Jeff Hoehn	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	Mark Seib	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*	
Randy Rankin	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO*				

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

*not with layout will help traffic flow*

Ron Fallowfield	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Keith Spurgeon	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO*	<u>YES</u> <u>NO</u>
Jeff Hoehn	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO	Mark Seib	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO*	
Randy Rankin	<input type="checkbox"/> YES*	<input checked="" type="checkbox"/> NO				

\*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 Variance:

is hereby granted \_\_\_\_\_ ( )

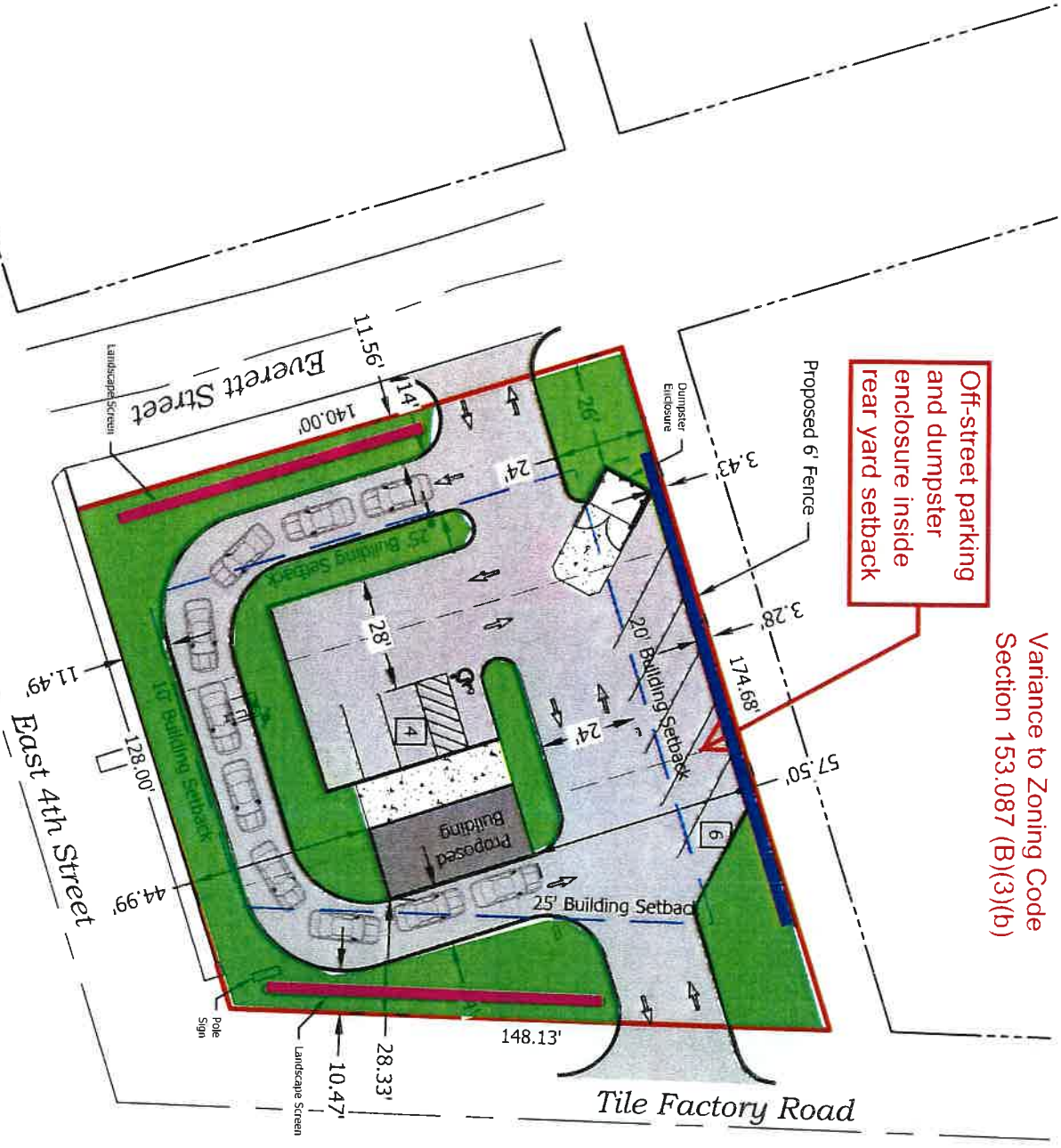
is hereby denied \_\_\_\_\_ ( )

subject to any conditions stated in the minutes of the Board, and incorporated herein and made a part of the decision  
Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.



Variance to Zoning Code  
Section 153.087 (B)(3)(b)

Off-street parking  
and dumpster  
enclosure inside  
rear yard setback



Scale: 1" = 40'



Legend

Property Line  
Setback Line

Site Summary

Property Area = ± 0.479acre  
Proposed Use = Drive-Thru Coffee Shop  
Building Area = 664 SF  
Provided Parking = 10  
Stacking = 10

Business Information

1. Drive-thru only. No walk-up window.
2. Coffee drinks, refreshers drinks, cinnamon rolls, breakfast burritos, cookies, egg bites, etc.
3. Open between 5am or 6am and 8pm. Opening time is still under consideration.
4. No lights in parking lot. The store has sign lighting and LED trim lighting on the building.
5. Approximately 300-400 cars per day.
6. Peak hours will be morning drive time, approximately 6am to 9am.
7. Approximately 30 part time and full-time employees.
8. Very little grease is generated because of the restaurant type.
9. Construction process will take approximately 4 months from groundbreaking.
10. A start date has not been determined yet.



4800 Rosebud Ln.  
Newburgh, IN 47630  
E 12.464.9585 Phone  
E 12.464.2514 Fax  
morleycorp.com

**Site Plan**

1101 E 4th St., Mt. Vernon, IN 47620  
Scooter's Coffee

Designed by	Job Number
AMC	12667
Drawn by	Use
AMC	01/03/2024
Illustration	
12667 Variance Exhibit	

12667

A similar variance was granted for the Casey's Store next door

Requested location of variance. Existing building is currently located in the setback.

Legend

