

# Wabash County Plan Commission

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## Wabash County Board of Zoning Appeals – Meeting Minutes

Board Members: Dan Dale, Amanda Lyons, Mark Milam, Joe Vogel, Jerry Younce  
Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Jennifer Hicks, BZA Secretary

**Tuesday, September 24, 2024**

### 1. Call To Order

Mark Milam, BZA Chairman, called to order the Board of Zoning Appeals meeting to order at 7:00 pm.

### 2. Roll Call

Jennifer Hicks, BZA Secretary, called roll:

- ✓ Dan Dale – *Absent*
- ✓ Amanda Lyons – *Present*
- ✓ Mark Milam – *Present*
- ✓ Joe Vogel – *Present*
- ✓ Jerry Younce – *Absent*

Jennifer Hicks declared a quorum was present.

### 3. Approval of Meeting Minutes – July 23, 2024

Joe Vogel made a motion to approve the minutes from July 23, 2024.

Amanda Lyons seconded the motion.

Jennifer Hicks called roll:

- ✓ Amanda Lyons – Yes
- ✓ Mark Milam – Yes
- ✓ Joe Vogel – Yes

The motion passed unanimously.

### 4. Approval of Meeting Minutes – August 27, 2024

Unable to vote on minutes from August 27, 2024

Approval of August Minutes tabled until October BZA Meeting

## 5. Old Business – None

## 6. New Business

### ❖ **Special Exception #10 – Kevin Cordes/Horvath Towers, Request to build a communications tower in an Ag1 Zone, Paw Paw Township**

- Brian Campbell
  - Presented a summary regarding Special Exception #10 and Variance #30. The Plan Commission Board gave a favorable recommendation for Special Exception #10 on September 5, 2024.
  - Will Faber from Horvath Towers was present to answer questions.
- Will Faber
  - A brief summary of the project was presented.
  - The proposed tower is 195 feet tall with an anchor tenant being Verizon Wireless. The tower is built with excess capacity to accommodate not only wireless carriers like Verizon, but also first responder networks (police, fire, etc.). The design meets all fall zone and setback requirements as per county ordinance.
  - The chosen location aims to maximize coverage while ensuring safety and harmony with the surrounding environment. Horvath expressed willingness to answer questions and discuss any project-related concerns.
- Mark Milam asked if the board or public had any questions.
- Joe Menna
  - Concerns regarding potential health impacts on residents living within 500 feet of the cell tower, the cumulative RF exposure from multiple carriers on the tower, and the reported health symptoms potentially linked to cell tower proximity.
- Will Faber
  - Horvath Towers is the developer of towers, not a conductor of health studies.
  - Verizon’s role as the anchor tenant/service provider is to adhere to FCC regulations
  - The FCC regulates frequencies and equipment to ensure safe and effective operation.
  - The FCC policy maintains that cellular facilities are safe and FCC guidance should be prioritized in zoning considerations.
- Joe Menna
  - Expressed concerns about potential long-term health effects of living near cell towers, citing anecdotal evidential and the restriction of towers on school grounds.
  - Highlighted the lack of definitive studies on long-term effects and the potential for concentration, cognitive, and DNA degradation issues.
  - Questioned whether the developer is prioritizing financial gain over resident health and well-being
  - Raised concerns about the cumulative impact of multiple carries and frequencies on the proposed “super tower”
  - Used the analogy of an industrial smokestack to illustrate the potential unseen impact of RF emissions.
- Mark Milam

- Asked Brian Campbell if the local ordinance complies or is it more stringent than federal guidelines
- Brian Campbell
  - The county ordinance primarily addresses tower placement and location.
- Will Faber
  - The federal regulations prohibit local entities being more stringent.
- Mark Frantz
  - Called Federal Preemption – if the government regulates the frequency allowed to be used on the towers, the local entity can't regulate it in a zoning ordinance.
  - The local entities can only regulate the local land use, nothing else.
- Bill Buzzard – Fire Chief, Roann Volunteer Fire Department
  - Concerned regarding the number of homes located within close proximity (approximately ¼ mile), at least 20 homes.
  - Due to his age, he might not see the effects, but he has family that might.
- Joe Menna
  - Deeply concerned regarding the tower's proximity to residences, particularly those with young children and families.
  - Cited studies suggesting an increased risk of cancer and other health issues for those living within close range (under 400 feet) of cell towers.
  - Highlighted the potential long-term effects of constant exposure to electromagnetic fields emitted by the tower.
  - Expressed specific concerns about 5G technology, comparing its frequency range to an "open-air microwave".
  - Emphasized the inescapable nature of exposure for residents living near the tower.
  - Raised the issue of potential negative impact on property values due to the tower's presence.
  - Understands the advantages of improved communication technology, but at what cost.
  - Requested the board carefully consider the residents' concerns and the potential long-term impacts of the tower.
- Mark Milam
  - Understands concerns, the matter at hand is for a tower, not what goes on the tower.
  - Noted that the referenced studies on health effects were conducted in various foreign countries – Germany, Australia, Egypt, France, Israel, Poland, and Spain.
  - Raised a question of whether their regulations and safety standards in those countries are comparable to those in the United States.
  - Acknowledged the underlying technology is the same, but potential differences in regulations could affect the relevance of those studies to the local context.
- Joe Menna
  - Referenced "SAFER Communications in Manhattan" and "Project for Safer Communications" as resources for further research on the potential impacts of communication technology

- Reiterated the need to balance the benefits of technological advancements with potential costs to human health and the environment.
  - Suggested that cell tower placement in less densely populated areas (farmland) might be preferable to minimize potential impact on residential communities.
- Amanda Lyons
  - Confirmation regarding all necessary approvals, i.e. FAA
- Brian Campbell
  - Confirmed all approvals were obtained within the extensive documentation received.
- Will Faber
  - Confirmed all federal authorities have approved the project
- Joe Vogel
  - Feels empathy for residents and their concern regarding the cell tower
  - Acknowledge this is the first time the board has encountered concerns such as these regarding a cell tower application
  - Recognized the need for careful consideration and discussion of the presented information before reaching a decision.
- Will Faber
  - Deferred to the board attorney regarding the legal precedent and scope of their consideration in evaluating the cell tower application.
  - Specifically, clarification on potential health effects falling within the boards purview when making a decision, given federal preemption and established case law
- Mark Frantz
  - While the board can't regulate the tower's frequency (deferring to the FCC), they are obligated to consider potential health and safety impacts on the community when making zoning decisions.
  - Highlighted the dual nature of the board's responsibility:
    - Adhering to federal regulations on frequency
    - Consider local health and welfare within those constraints
- Joe Vogel
  - Acknowledged that Will Faber may not possess specific technical expertise on cell tower equipment and power levels
  - Raised a question about the power level of the proposed equipment, is it high, medium, or low relative to typical cell tower installations?
  - May be relevant to assessing the potential range of the tower's emissions and its impact on surrounding areas
- Will Faber
  - Proposed equipment does not have a significantly higher power output compared to typical installations
  - The frequencies used are standard for 4G LTE systems and have been widely deployed in the United States for over 15 years.
  - The technology being deployed is considered a "legacy system" implying it's well-established and not employing newer technologies like 5G, which might have different power or frequency characteristics.

- Joe Vogel
  - Requested information on if people lived closer than ¼ mile and how many
- Joe Menna
  - Concern about the proximity of a number of homes within a quarter mile.
  - Company approached multiple landowners before selecting this site.
  - Background in military and communication wants to raise awareness of potential dangers
  - Concerns frequencies could accelerate illness
- Joe Vogel
  - Requested information on frequencies dissipating
- Joe Menna
  - Microwave signals from cell towers penetrate common building materials (wood, vinyl, plastic, etc)
  - Metal roofing and siding can deflect signals
  - Asphalt and similar materials may absorb and degrade signals
  - Cell phone signals designed to penetrate walls to enable indoor use
  - Concerns raised about potential health effects of constant exposure to microwave frequencies, especially at close range
  - Analogy made to microwaves used for cooking, highlighting potential impact of microwave radiation on molecules causing vibration and heat
- Ashley Cordes
  - Presented letter to Brian Campbell to read.
- Daryn Cordes
  - Presented letter to Brian Campbell to Read
- Brian Campbell
  - Daryn's Letter was read first
    - Concerned about potential health and environmental impacts of the proposed cell tower due to its proximity to his home and surrounding area.
    - Expresses concern over the lack of knowledge and conclusive studies about the long-term effects of cell tower radiation on humans, animals, and plants.
    - Cites research indicates potential negative impacts on trees, crops, insects, honeybees, wildlife, and livestock.
    - Highlights the vulnerability of family members with chronic illnesses to radiation.
    - Acknowledges that the site meets setback requirements but points out that other neighbors refused the tower due to health concerns.
    - Questions the necessity of the tower in Roann, stating that cell service has been adequate for 25 years.
    - Emphasizes the need for caution when dealing with new technologies and potential unknowns.
    - Requests the board reject the project due to potential risks, however, if approved mandate independent, random monitoring of the tower's emissions.
  - Ashley Cordes' letter read second
    - Lives across the field from the proposed tower location
    - Expressed concern due to vulnerability due to pre-existing health conditions, family history with cancer, and concerns about potential RF exposure.

- Concerns about potential impact on wildlife, crops, and livestock.
- Raised issue of potential fire risk and referenced the International Association of Fire Fighters' stance on cell tower safety
- Disappointed in the lack of communication from family members involved in the project.
- Expresses a desire for progress, but with caution and consideration for potential consequences.
- Criticized Verizon for not adequately educating landowners about potential risks and concerns associated with cell towers.
- Emphasized commitment to protecting the health and well-being of her family, future generations, and the surrounding environment.
- Requested consideration for long-term health and safety over short-term financial goals.
- Mark Milam
  - Reiterated the meeting was to consider a special exception for a tower
  - Clarified the board's role was limited to evaluating the placement of the tower, not its specific use or the technology deployed on it.
  - Acknowledged that resident concerns primarily focused on the potential long-term impacts of the tower, regardless of its current configuration
  - Consulted the board regarding if they needed to gather more information and potentially consult an expert prior to making a decision
- Joe Vogel
  - Motion to continue
  - Requested additional information from an expert
- Amanda Lyons
  - Seconded the motion to continue
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to continue Special Exception #10 passed unanimously.

❖ **Variance #30 – Kevin Cordes/Horvath Towers, Variance from the Development Standard to place a non-ag related structure (communications tower) in an Ag1 Zone**

- Joe Vogel
  - Motion to continue
- Amanda Lyons
  - Seconded the motion to continue
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to continue Variance #30 passed unanimously.

❖ **Special Exception #11 with Variance – Bachelor Creek Church of Christ, Request to build a pond, lake, or earthen structure with a water surface area greater than 400 sq feet**

**with a variance from the development standards from the setback requirements for a pond, lake or earthen structure, Noble Township**

- Brian Campbell
    - Presented a summary regarding Special Exception #11 with a variance.
    - Detention pond was already built several years ago to deal with some drainage issues, the pond has never caused flooding issues
    - Requesting variance from the setbacks due to the proximity to the east and south property lines
    - The Wabash County Drainage Board reviewed and approved the project
    - The Wabash County Plan Commission Board gave a favorable recommendation for Special Exception #11 on September 5, 2024.
    - Ted Little is present to answer any questions
  - Ted Little
    - Trying to correct issues that were created years ago when other church members were in charge
    - Adjacent property owners are church members and supportive of the project
    - The church in a separate variance is seeking to address impervious coverage by acquiring additional acreage (see variance #32)
  - Mark Milam
    - Any questions from the public or board
  - Amanda Lyons
    - Motion to approve the special exception for the detention pond
  - Joe Vogel
    - Seconded the motion to approve
  - Jennifer Hicks called roll:
    - Amanda Lyons – Yes
    - Mark Milam – Yes
    - Joe Vogel – Yes
- The motion to approve Special Exception #10 passed unanimously.

- Mark Milam
    - Any motions for the variance
  - Joe Vogel
    - Motion to approve the variance for setbacks
  - Amanda Lyons
    - Seconded the motion to approve
  - Jennifer Hicks called roll:
    - Amanda Lyons – Yes
    - Mark Milam – Yes
    - Joe Vogel – Yes
- The motion to approve the setback variance passed unanimously

- ❖ **Variance #31 – Leonard Stout, Dennis McKillip, et al/Bachelor Creek Church of Christ, variance from the development standards to split a section of property zoned A1 for non-ag purposes (to be owned by a church), Noble Township**

- Brian Campbell
  - Presented a summary regarding Variance #31
  - Purpose to acquire additional land and bring the overall property into compliance with impervious surface limits, allowing for a planned project.
  - The church is exceeding the 40% impervious surface limit for A2 zoning.
  - Acquiring the A1 parcel would bring the combined property under the limit (39.77%) if calculated as A2.
  - The point factor system for A1 use was not met, requiring a variance.
  - Confusion arose regarding zoning and impervious limits if the parcels were combined.
  - The acquired parcel would remain A1 even if combined, potentially limiting future development options
  - The possibility of rezoning the entire property to A2 was discussed.
  - Ted Little is present to answer any questions
- Ted Little
  - The church is 175 years old, several additional parcels acquired through the years, they want to do things the right way.
  - The newly purchased land would continue to be farmed as it is now, just helping bring down the percentage of impervious coverage
- Mark Milam
  - Any motions for the variance
- Joe Vogel
  - Motion to approve the variance to split a section of property zoned A1 for non-ag related purposes
- Amanda Lyons
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

❖ **Variance #32 – Bachelor Creek Church of Christ, Variance from the development standards requiring maximum lot impervious coverage of 40%, Noble Township**

- Brian Campbell
  - Presented a summary regarding Variance #32
  - Purpose to acquire additional land and bring the overall property into compliance with impervious surface limits, allowing for a planned project.
  - The church is exceeding the 40% impervious surface limit for A2 zoning.
- Joe Vogel
  - Motion to approve the variance for the impervious coverage of 40%
- Amanda Lyons
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:



- Amanda Lyons – Yes
- Mark Milam – Yes
- Joe Vogel – Yes

The motion to approve the variance passed unanimously

❖ **Variance #33 – Dylan Sparks/Carson Rody, Variance from the development standards to place a non-ag related structure (residence) in an Ag1 zone, Liberty Township**

- Brian Campbell
  - Presented a summary regarding Variance #33
  - Dylan Sparks is the property owner, Carson Rody is the applicant
  - Requesting a variance to place a non-ag related structure (new home) in an A1 zoning district.
  - The applicant did not receive the required number of points using the Point Factor System (received 8, needed 15)
  - No home currently exists on the property, but there was a mobile home on the property from approximately 1998-2022, no home has been on the parcel in the past 12 months
  - The property split for this section was recorded in January 2021.
  - Rush Creek is located on the property with a flood zone, there is a 75-foot setback requirement from the floodway.
- Amanda Lyons
  - Type of Home
- Carson Rody
  - Confirmed plan to build a new home, not another mobile home
- Joe Vogel
  - Motion to approve the variance to allow a non-ag related structure in an A1 zone
- Amanda Lyons
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

❖ **Variance #34 – Midwest Veal, Variance from the development standards to place a property line closer to an accessory structure than the side setback requirements outlined in the ordinance, Chester Township**

- Brian Campbell
  - Presented a summary regarding Variance #34
  - Requesting a variance of approximately 10.65 feet from the southerly property line.
  - Midwest Livestock is selling the surrounding acreage but retaining the farm buildings for agricultural storage
  - The buyer wants to maximize land acquisition, influencing the proposed property line
  - A significant portion of the southern parcel is covered by a floodway and flood plain

- The variance allows for a more natural property line near an existing fence and maximized usable land for the buyer.
  - No objections were received from adjoining owners contacted about the variance.
  - No parcel splits recorded in the past 5 years
  - Joe Vogel
    - Confirm the Northern building was a calf barn
  - Steve Anderson, CEO of Midwest Livestock
    - Yes
  - Mark Milam
    - Clarification that the round structures were manure pits and they are no longer in use
  - Robert Eherenman, Attorney for Midwest Livestock
    - Yes
  - Mark Milam
    - Anything connecting the existing barn to the manure pit
  - Steve Anderson
    - Everything has been removed
  - Joe Vogel
    - Motion to approve the variance to allow a property line to be placed closer to an accessory structure than the required setbacks.
  - Amanda Lyons
    - Seconded the motion to approve the variance
  - Jennifer Hicks called roll:
    - Amanda Lyons – Yes
    - Mark Milam – Yes
    - Joe Vogel – Yes
- The motion to approve the variance passed unanimously

❖ **Variance #35 – Property Owner, Variance of use from the Factor Point System to request a split of a parcel in an Ag1 zone without receiving the minimum required points, Lagro Township**

- Brian Campbell
  - Presented a summary regarding Variance #35
  - The property owner wishes to purchase a portion of land from the farmer to obtain enough land for future building expansion and to come into compliance with current requirements of 1.5 acres for a residential parcel.
  - The Point Factor System was run, the required points were not obtained
- Amanda Lyons
  - Motion to approve the variance request to allow a split of A1 zoned land without receiving minimum required points
- Joe Vogel
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes

- Joe Vogel – Yes

The motion to approve the variance passed unanimously

❖ **Variance #36 – Donna and Troy Dietrich, variance request was withdrawn, Waltz Township**

- Brian Campbell
  - Confirmed the variance request was withdrawn

❖ **Variance #37 – Liberty Township Trustee/Charles Cable, Variance from the development standards to place an accessory structure closer to the roadway than required by the ordinance, Liberty Township**

- Brian Campbell
  - Presented a summary regarding Variance #37
  - Proposed sign is double-sided 27" x 35", and would be placed 17 feet from the edge of the paved roadway (25 feet from the center of the roadway)
  - Existing power poles and trees are located closer to the roadway than the proposed sign
  - Confusion arose regarding the cemetery's ownership, which has been recently transferred to Lori Brane from the Liberty Township Trustee
- Jennifer Hicks
  - Per Indiana code, with a few exceptions, cemeteries are maintained by the Township Trustee.
  - A signed agreement from the Liberty Township Trustee allowing Lori Brane and Charles Cable act on her behalf since the cemetery was very recently transferred from the Trustee to Lori Brane
  - The cemetery was never deeded to anyone, it was started on private property in the late 1800's and no records have been found transferring ownership since that time
- Joe Vogel
  - Confirming if the cemetery is active
- Charles Cable
  - No, the cemetery is inactive and has not had any burials for a number of years
- Joe Vogel
  - Motion to approve the variance to allow an accessory structure closer to the roadway than permitted by ordinance setbacks
- Amanda Lyons
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

❖ **Variance #38 – Robert Gallaway, Variance from the ordinance setback requirements for a local street, Variance from the ordinance maximum lot coverage requirements for an R3 zoned district, Variance from the ordinance minimum aggregate distance between residential structures, Liberty Township**

- Brian Campbell
  - Presented a summary regarding Variance #38
  - Three requests for this variance
    - Variance from the front yard setback by approximately 3 feet
    - Variance from the maximum lot coverage for structures in R3 zone by approximately 200 square feet
    - Variance from the minimum aggregate distance between structures by approximately 15 feet
  - Not located in a high traffic area
- Amanda Lyons
  - Motion to approve the front yard setback requirements
- Joe Vogel
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

- Amanda Lyons
  - Motion to approve the variance on the maximum lot coverage requirements
- Joe Vogel
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

- Amanda Lyons
  - Motion to approve the variance for minimum aggregate distance between residential structures
- Joe Vogel
  - Seconded the motion to approve the variance
- Jennifer Hicks called roll:
  - Amanda Lyons – Yes
  - Mark Milam – Yes
  - Joe Vogel – Yes

The motion to approve the variance passed unanimously

## 7. Other Business

### ❖ Countywide Complaints Update

- 52 open complaints, including those rolled over from 2023
- 43 rolled over from 2023, 20 of those closed so far this year
- 63 new complaints in 2024; of those 34 have been closed

- 106 total complaints worked; 54 have been resolved

❖ **Any other business to be brought before the Board of Zoning Appeals**

- Brian Campbell
  - Placed a stop work order on a homeowner who is constructing a garage without the required permits and is in violation of property line setbacks.
  - Homeowner recently acquired an adjacent parcel (0.385 acres) but did not combine it with his existing property (1.03 acres).
  - The new garage extends beyond the property line by 5-6 feet.
  - The construction also violates setback requirements for the north property line.
  - The homeowner is requesting a temporary lift of the stop work order to install the roof and heating system (wood-burning stove) for the house, which is attached to the garage.
- Joe Vogel
  - How was the initial complaint received
- Brian Campbell
  - Saw the construction while out investigating complaints on other properties
- Mark Milam
  - Confirming the homeowner is currently living in the home with his family, what were they doing to heat the house previously
- Brian Campbell
  - Yes, the garage that was there previously housed the heating system for the entire house, homeowner has a new heating system to install in the new garage, but cannot install it until there is a roof on the new structure to protect the system
- Mark Frantz
  - Can the farm be split again
- Brian Campbell
  - There was a split 2 years ago, a variance would be required
- Mark Frantz
  - Covered the process of the someone appealing an order placed by Brian
- Brian Campbell
  - No appeal was requested, just direction on how to go about finding a compromise to allow him to heat his house for his family
- Amanda Lyons
  - Is there a provision in the ordinance about if you are doing something to correct a problem, non-conforming issue, the process is different
- Brian Campbell
  - Correct, there is an administrative subdivision that allows leeway if there's an error someone is asking to fix, however this isn't an error in that way
- Joe Vogel
  - Asked to confirm how long the homeowner has owned the property
- Brian Campbell
  - Purchased in 2004
  - Unsure how to lift a stop work order when the property is still in violation
  - Homeowner is willing to comply with the ordinance
- Mark Frantz
  - There is an option to for a partial lift of the stop work order to allow for essential work (roof and heating) while ensuring continued compliance

- Homeowner must still obtain the necessary permits and variances to address the property line and setback violations
- If the homeowner fails to comply, there are options for further ordinance enforcement actions

❖ **Motion for Adjournment**

- Joe Vogel
  - Motion to adjourn
- Amanda Lyons
  - Second the motion to adjourn
- Meeting adjourned at 8:54 pm.

**Also Present:** Robert Gallaway, Gary Dawson, Frankie Dawson, Nicky Burnsworth, Daryn Cordes, Ashley Cordes, Ted Little, Bill Burnsworth, Kevin Cordes, Tyler Guenin, Carson Rody, Joe Menna, Will Faber, Jessica Glomb, Jennifer Menna, Robert Eherenman, Steve Anderson

(bac)