

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20th DAY OF MARCH 2008 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser, with the following board members present: Robert Homan, Meg Wolgamood, and Doug Miller. Staff members present were: Robert Watkins, Plan Director; Duane Burrow, Senior Planner; Dan Piehl, Planner; Robert Nemeth, Planner; Ann Prough, Code Enforcement Officer; and James W. Kolbus, Attorney for the Board.
2. A motion was made and seconded (*Homan/Miller*) that the minutes of the regular meetings of the Board of Zoning Appeals held on the 17th day of January and the 21st day of February be approved as read. The motion was carried with a unanimous roll call vote.
3. A motion was made and seconded (*Wolgamood/Homan*) that the legal advertisements, having been published on the 8th day of March 2008 in the Goshen News and on the 10th day of March 2008 in The Elkhart Truth, be approved as read. A roll call vote was taken, and with a unanimous vote, the motion was carried.
4. A motion was made and seconded (*Wolgamood/Miller*) that the Board accepts the Zoning Ordinance and Subdivision Control Ordinance as evidence into the record and the motion was carried with a unanimous roll call vote.
5. A motion was made and seconded (*Miller/Wolgamood*) that the Board accepts the Staff Reports as evidence into the record. A roll call vote was taken and the motion was carried with a unanimous vote.
6. There were no postponements of business items.
7. The application of **Randy Kwilinski** for a Use Variance to replace a small off-premise sign on property located on the West side of SR 15, 1,345 ft. South of US 20, common address of 57273 SR 15 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081301*.

There were 9 neighboring property owners notified of this request.

Dan Brogan, Brogan Outdoor Advertising, 5518 Thorn Briar Lane, Fort Wayne, was present representing the Old Bag Factory. Mr. Brogan submitted one photo of the Old Bag Factory sign [*attached to file as Petitioner Exhibit #1*]. The sign is not a typical billboard because it's only 12 ft. by 8 ft. The state has given approval for the sign to be put back up because it's been grandfathered in.

Mr. Brogan then read letters from two of his clients, Dan Watson of Watson Computer Services and Larry Schwartzenruber from the Old Bag Factory. Mr. Watson's letter asked the Board to reconsider their decision for the billboard due to the company's needs. Mr. Schwartzenruber's letter stated that the billboard allows for customers to locate the business. He stated that losing the billboard was out of their control and they haven't found any other

location for the sign. He asked the Board to allow the sign for the Old Bag Factory to be erected at the valuable intersection.

Mr. Brogan said the sign would be a benefit to the general welfare because it helps the important businesses survive. If the Board doesn't allow the sign to be put up in this location, it will not be put back up at all due to a lack of opportunities. By the state, it is legal for the sign to be put back up since it was grandfathered in.

Mr. Hesser asked if the parcel that is highlighted on the aerial photo is owned by the same person and Mr. Brogan said yes, they are owned by Randy Kwilinski.

Mr. Hesser asked if the driveway comes out at the top of a hill and Mr. Brogan said yes.

Mr. Brogan indicated the staff report says there was no building permit for the previous sign. The sign was bought back in 1988 and Mr. Brogan isn't sure what the requirements were at that time. He does have the original lease from the person he bought it from, which is dated July 16, 1985. It states that the old boards had no value and they could be discarded, which indicates that there was an existing sign there. He doesn't believe the sign was erected illegally.

Mr. Hesser asked the staff if old sign locations are permitted in new areas when the roads are widened. Mr. Burrow said not since the correction to the Elkhart County Ordinance in 1995.

Mr. Hesser indicated there are a number of signs as you get closer to US 20 and asked if those are within the zoning district and Mr. Burrow said yes. Mr. Burrow indicated they never went back to check and see if this particular sign was non-conforming, so that can't be a statement of fact.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood indicated she didn't realize that this sign was originally on this property. She had understood that it was being relocated from somewhere up north to this property. When she interpreted it that way, she was in favor of the request. This sign has been there for years and because of something that the landowner had no control over, the sign is being denied. Mrs. Wolgamood said she has a difficulty with that.

Mr. Hesser asked if there are any enforcement issues with the signs that have been there for a while. Mr. Burrow indicated that is not something the county has money to do, but the Indiana State Highway Department did compensate them for the loss of the sign. Mr. Brogan said they paid to have the sign taken down and re-installed, but they didn't compensate him for lost revenues.

Mr. Hesser said when the Board is in this situation, they need to be consistent with what is being done. He believes that this situation would be more appropriately dealt with in the compensation area rather than changing the rules of the ordinance.

Mr. Homan said he has trouble with the conditions of a Use Variance, but this is an unusual circumstance. One of the conditions is that there should be something peculiar about the property that is involved, which would not apply in this situation.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Homan*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Use Variance to replace a small off-premise sign be denied. A roll call vote was taken and the motion was carried unanimously.

8. The application of **Old Brethren Church (buyer) and Roger Skiles (seller)** for a Special Use for a church (Specifications F - #48) on property located on the North side of CR 44, 2,475 ft. East of CR 3, common address of in Locke Township, zoned A-1, came on to be heard.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081264*.

There were 11 neighboring property owners notified of this request.

Blake Doriot, B. Doriot & Associates, P.O. Box 465, New Paris, was present representing Roger Skiles and the Old Brethren Church. Mr. Doriot indicated that Roger Skiles and another member of the building committee were present in the audience. The church has approximately 15 families and Mr. Doriot clarified that it's three acres. The building committee has spoken to the neighbors regarding the construction.

They are planning on a wood frame church, which will be approximately 40 ft. by 70 ft. The main activities will be happening on Sunday with minimal weekday use.

Mr. Doriot said there will be a gravel parking lot. Upon approval from the Board of Zoning Appeals, they will create a final site design. He pointed out the proposed retention area in the southeast corner of the parcel. They also plan to go to the Drainage Board to allow for appropriate drain down time on site.

Mr. Hesser asked what the capacity of the building is. His concern is having adequate space if they have weddings or other events there. Mr. Doriot said the capacity will be worked out in their final design after they receive approval from the Board. The church is small and the funds are small.

Roger Skiles, 67706 CR 3, Wakarusa, indicated the engineer they are working with has estimated the church having a maximum capacity of 150.

Mr. Hesser asked how they would deal with parking and Mr. Skiles said they would provide ample parking for more than just the 15 families.

Mr. Doriot said the parking area will have sod instead of gravel.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a church (Specifications F - #48) be approved with the following conditions imposed:

1. A detailed site plan to be submitted prior to any construction on this property.
2. All state and local permits and inspections must be obtained.
3. Curb cut must conform to Elkhart County Highway Standards.

After a unanimous roll call vote was taken, the motion was carried.

9. The application of **Doug Martin** for a Special Use to allow for a wind generator including an 80 ft. tower (Specifications F - #31.50) on property located on the South side of CR 24, 2,350 ft. East of CR 9, common address of 25538 CR 24 in Concord Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff [*attached to file as Staff Exhibit #1*].

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081168*.

There were 13 neighboring property owners notified of this request.

Doug Martin, 25538 CR 24, Elkhart, was present on behalf of this request. With fuel prices being the way they currently are, Mr. Martin took the initiative to look at renewable energy sources. After a lot of searching, he came upon a generator that is priced so it pays itself and he expects to get between 800-900 kilowatts per month.

Mr. Martin indicated he has spoke to all of the neighbors in the area and they have no opposition to this request. The neighbor that sent the letter in favor of this request is the one who lives the closest to him.

Overall, he would like to put this wind generator up to provide electricity for his own house in a more cost effective manner. The generator will also be pollution free.

Mrs. Wolgamood asked if they will be working with AEP and how their company would be involved. The petitioner said when the generator puts out more electricity than his household will be using, the excess electric will be put back onto the grid for someone else to use. When Mr. Martin uses more electricity than the generator is, he will be pulling off of the grid just as he is now. AEP will put one outgoing meter on his house and one incoming meter, which will allow the company to see what happened. In order to do this, you have to pass all of the requirements that AEP and the state has to be grid tied, which is an intense process. He is currently going through that process and everything is pretty much settled.

Mr. Martin said when it puts out more electricity than his house is using, then it will put more electric out on the grid, which someone else can use.

He will have two meters on his house so they can tell what all happened. It is pretty intense and he has to meet all of the standards. Mr. Martin said he's currently going through that process right now.

Mrs. Wolgamood also asked if radio, TV or telephone interference would be an issue. Mr. Martin said he doesn't believe that will be a problem because this is an induction generator. He explained this will over speed an induction motor, which causes it to go from a motor to a generator. He doesn't anticipate having any interference at all. There is a lock box at the bottom of the tower and they have the right to come on his property and lock it out if they need to. The county would also have the right to lock it out if there were any interference problems.

Mrs. Wolgamood asked if he would have any problem getting the county a letter stating there would be no interference and he said no.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use to allow for a wind generator including an 80 ft. tower (Specifications F - #31.50) be approved with the following conditions imposed:

1. Approved for a wind generator atop an 80 ft. tower.
2. The Elkhart County Tower Policy to be adhered to.
3. A letter to be placed in the file stating there will be no interference with local radio, TV and telephone service.

A roll call vote was taken and the motion was carried unanimously.

10. The application of *Nicholas Dembinski* for a Special Use renewal for an existing home workshop/business to store an ice trailer and supplies (Specifications F - #45) on property located on the Southeast end of Fox Tail Lane, 515 ft. South of Sugar Pine Drive, being Lot 105 Cleveland Trails Estates, common address of 53972 Fox Tail Lane in Cleveland Township, zoned R-1, came on to be heard.

One photo of the property was submitted to the Board by the staff [attached to file as Staff Exhibit #1].

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as Case #20081124.

There were 14 neighboring property owners notified of this request.

Susan Dembinski, wife of Nicholas Dembinski, 53972 Fox Tail Lane, Elkhart, was present on behalf of this request. Mrs. Dembinski indicated she has been doing this for a while.

Mr. Homan asked if they have had any conflicts with any of the neighbors. The petitioner said she had one call because the trailer was in the driveway for a few days. The reason it was in the driveway is because they were cleaning it out, but they try not to do that anymore.

Mrs. Dembinski indicated the concession trailers are now stored at a different location. They have a rental house in Mishawaka where they are storing them.

Mr. Homan asked if the business has grown in the past ten years and the petitioner indicated it has stayed about the same. She said they do a lot of sporting events at Notre Dame, but that doesn't involve the trailers because they have seasonal carts at the college.

Mr. Hesser asked if the trailer is stored in the building or outside when it's not in Mishawaka. Mrs. Dembinski said they have two concession trailers and they are not stored at their home any longer. The location in Mishawaka has more room and it works better, so they are being stored there.

Mr. Miller clarified that she is basically asking for permission to store supplies in the pole barn. Mrs. Dembinski indicated that is correct.

Mr. Kolbus indicated they are very accurate in their application in regards to the difference between ice trailers and concession trailers.

The petitioner said they eventually hope to move to the Mishawaka location since it's more of a commercial property.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Hesser*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use renewal for an existing home workshop/business to store an ice trailer and supplies (Specifications F - #45) be approved with the following conditions imposed:

1. All original conditions to be adhered to with the exception of the ten (10) year renewal before the Board of Zoning Appeals.
2. Approved for an indefinite period of time. If valid complaints are received by Code Enforcement, the Special Use will be returned to the Board of Zoning Appeals for reconsideration.
3. Approved for the owner/occupant of the residence on site.

After a unanimous roll call vote was taken, the motion was carried.

11. The application of *Steve Kasten* for a Special Use for a kennel with outdoor pens for obedience training (Specifications F - #15.10) on property located on the West side of Jefferson Parkway, 1,010 ft. South of US 20, common address of 57185 Jefferson Parkway in Jefferson Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081287*.

There were 18 neighboring property owners notified of this request.

Steve Kasten, 57185 Jefferson Parkway, Bristol, was present on behalf of this request. Mr. Kasten explained that he does electronic pet fencing and obedience training. He has two types of programs. The first one being a residency program where he picks the dog up and it stays with him for a chosen amount of days. The second type of program is private lessons.

After doing the training for a year and a half, he has found that he can do one or two more dogs at a time than he has been able to do in the past. There is also a need for private lessons. He doesn't train more than four dogs at one time because anything beyond that makes it hard to read the dog and the handler's personality.

When Mr. Kasten brings a dog to his house, it will stay for a certain amount of time. If he has his own dog, plus two or three other dogs, then he wouldn't be able to do a group lesson. A group lesson would be once a week for approximately an hour. To keep the customer's cost down, he would like to meet them at his house with no more than four dogs at one time. Mr. Kasten explained if he has three dogs he's training at his house, plus his personal dog, then he could still do a group lesson with one to four dogs.

Throughout the year, it will make it easier for the petitioner to be able to train the dogs at his residence. This allows him to work on house manners with the dogs such as biting, chewing, etc.

Regarding condition #2, the petitioner explained that not all of the training would be on his property. Mr. Kasten said he does a lot of walking in the areas around his house and along the road. He indicated it is imperative for him to walk up and down the street because that allows the dogs to become socialized to cars. The petitioner would have no problem with doing group lessons to the back of the house instead of by the road. He has spoken to all of the neighbors apart from one.

Mr. Homan asked for a clarification on the training to the west of the house. Mr. Kasten said he heels and walks the dogs throughout the area because there are different scents to smell.

Mr. Homan asked if he could confine his group training to the south side of the property and Mr. Kasten said yes. He explained there is a need for group training, but that's not first and foremost.

Mr. Hesser questioned if he's asking to have more dogs there during the day. Mr. Kasten clarified someone may come to him and want to do the 7 or 14 day program. Mr. Hesser said the staff recommendation would allow up to five. Mr. Kasten said if he had four dogs plus his own, then he would not be able to do a private lesson since there are five dogs on the premise at one time.

Mr. Hesser asked if the group lessons are overnight and Mr. Kasten said no.

Mr. Hesser asked if that would be considered exceeding the allowed amount of dogs. Mr. Kolbus said the way it's written, that would be considered exceeding.

Mrs. Wolgamood said the hours of operation are 8 a.m. to 8 p.m. and asked if that would include Sunday. Mr. Kasten said yes because he takes the dog out to relieve itself and for a walk.

Mrs. Wolgamood asked about group lessons on Sunday. Mr. Kasten said he wouldn't particularly prefer group lessons on Sunday, but it's whatever suits the customers the best.

Mrs. Wolgamood asked if there is a sign there now and the petitioner said no. She asked if there is a particular reason he would like a 4 x 6 sign and he said no. He indicated he doesn't have to have a sign, but he figured he could ask for it.

Mr. Homan asked if the impact would increase if they allowed more dogs than five.

Mr. Homan asked how much kennel space he has. Mr. Kasten said most of the dogs he does are in the adolescent stage, so they are crated. He has two crates he has constructed and the customers also bring a crate with them.

Mr. Homan asked if he could manage having four dogs in the residential program at one time and then the group training at another time. Mr. Kasten said if he had four dogs in his residential program, it would only be for a short amount of time.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan said they should address the sign. He suggested that if the petitioner wants a sign, he should stay within the standard four sq. ft. regulation.

Mr. Hesser also suggested adding that the business should be limited to the owner/occupant of the residence.

Mr. Miller asked if they need to put a time restraint on this request. Mr. Homan suggested putting a two year limit on it with a staff renewal, but Mr. Kolbus said not to do a staff renewal.

Mr. Kolbus said the number of dogs would be set by the Board. Mr. Homan suggested changing it to seven, which would also include his personal dog. The group training is to be located on the south side of the property or to the west of the property.

Mr. Kolbus then suggested having a three year renewal.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Hesser*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for a Special Use for a kennel with outdoor pens for obedience training (Specifications F - #15.10) be approved with the following conditions imposed:

1. No more than seven (7) dogs on site at any one given time, including the petitioner's personal pet.
2. Group training is to be located on the south side of the property or to the west of the property.
3. One (1) sign no larger than four (4) sq. ft. per side and unlighted.
4. Approved for the owner/occupant of the residence on site.
5. The Special Use is to be renewed before the Board in three (3) years.

A roll call vote was taken and the motion was unanimously carried.

12. The application of *Stephen Schmidt* for a Special Use for a bed and breakfast homestay in an A-1 district (Specifications F - #4.50) on property located on the West side of CR 11, 2,000 ft. South of SR 119, common address of 66537 CR 11 in Harrison Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081245*.

There were 8 neighboring property owners notified of this request.

Stephen Schmidt, 66537 CR 11, Goshen, was present on behalf of this request. Mr. Schmidt said he and his wife enjoy traveling and like to stay in bed and breakfast home stays wherever they can. He explained his wife is very good at hospitality and they would like to have an area in their house to keep guests.

The Schmidt's would also like to use the units as profit quarters because they have quite a few missionaries at their church. They would be able to stay at the house until they find housing and it won't cost them anything. Mr. Schmidt said they would also like to have a little bit of extra income from this.

Mrs. Wolgamood noted that when the building permit was issued for the residence, there was a kitchen that was allowed by the Building Commissioner in the lower level. Mr. Schmidt indicated that is correct and they have two kitchens in the house. The basement kitchen is used for his wife to do her canning and it would also allow missionaries a place to do their own cooking.

Mrs. Wolgamood asked if the kitchen in the basement will be used for guests of the bed and breakfast. According to the way it's written, Mr. Schmidt said it would be allowed for the bed and breakfast.

The Board questioned whether Mr. Schmidt was aware of the definition of a bed and breakfast and the petitioner indicated he was. He understands what is and isn't allowed in a bed and breakfast home stay.

Mrs. Wolgamood asked if the septic system has been sized accordingly and Mr. Schmidt said yes.

Mr. Homan asked if the two bedrooms that would be available for guests would be on the main level. Mr. Schmidt said they will be located on a walkout. The units were built on the side of a hill and they have their own doors to come in.

Mr. Homan asked if the petitioner has addressed the egress issues with Mr. Harrell and Mr. Schmidt said yes, there are no issues there.

On the building permit, Mr. Miller pointed out the septic system was sized for four bedrooms, but there are three bedrooms upstairs and four downstairs. He then asked if the septic system was increased in size and Mr. Schmidt said there will be five bedrooms. Under code, you are allowed one extra bedroom than what you are built for.

There were no remonstrators present.

Mr. Schmidt indicated they aren't planning on having these rooms full 24/7. He and his wife would like to see people stay there four or five nights per month, which will also depend on the season.

The public hearing was closed at this time.

Mrs. Wolgamood said she doesn't have an issue with it, but she suggested adding that the bed and breakfast be owner occupied to the conditions. She also thought they should add that the petitioners comply with the definition of a bed and breakfast home stay to the conditions.

Mr. Hesser asked about a time limit for renewal. Mrs. Wolgamood said this is very low impact. Mr. Kolbus said this situation is different because it's not located in a residential subdivision.

Mr. Burrow pointed out that the definition of a bed and breakfast home stay allows up to six bedrooms to be used. Mrs. Wolgamood said the Board is designating two to be used. Mr. Kolbus indicated they should keep condition #3 and add a condition #4 stating they should comply with the definition of a bed and breakfast home stay unless otherwise conditioned.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Homan*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a bed and breakfast homestay in an A-1 district (Specifications F - #4.50) be approved with the following conditions imposed:

1. Sign limited to four (4) sq. ft. per side and unlighted.
2. All state and local permits and inspections must be obtained.
3. The number of bedrooms to be rented limited to two (2).
4. The bed and breakfast is to be owner occupied.
5. Unless otherwise stipulated, the petitioner must comply with the Zoning Ordinance definition of a home stay bed and breakfast.

After a roll call vote was taken unanimously, the motion was carried.

13. The application of *Michiana Equipment & Vinyl Pro* for a Special Use for warehousing and storing for vinyl fencing and agricultural equipment in an A-1 district (Specifications F - #44) on property located on the Northeast corner of CR 30 and CR 37, common address of 12865-2 CR 30 in Clinton Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081296*.

Mrs. Wolgamood asked how this petition came about. Mrs. Prough indicated it was not in the result of a complaint. She was out to do a staff review to verify compliance of the conditions of the permit, which was when she found out the site was not in compliance.

There were 14 neighboring property owners notified of this request.

Jay Graber, 13865 CR 30, Middlebury, owner of *Michiana Equipment & Vinyl Pro*, was present on behalf of this request. Mr. Graber said when he got the Special Use permit 12 years ago, he didn't realize he couldn't store anything on the outside. He indicated 95% of the sales are livestock and poultry equipment. They buy semi lots, unload them, and store them. Mr. Graber indicated he currently has two employees at the shop.

Mr. Hesser asked if he has stored supplies outside since he has gotten the Special Use in 1997. Mr. Graber said they started in 1996 at the corner of SR 13 and CR 32. They outgrew that location and then moved it to his personal property. The business grew from there and he estimated nothing was stored outside for the first three years.

Mrs. Wolgamood asked if there is a display area out front. Mr. Graber said there is a display of a gazebo, but he has no problem removing that.

Mrs. Wolgamood asked how many employees he currently has. Mr. Graber said there are two employees in the office building, including the petitioner. The petitioner indicated he is only there about 25% of the time. They also have 12-15 employees who are out on job sites.

Mrs. Wolgamood asked if the 12-15 employees ever enter the job site. Mr. Graber indicated they come and load up their supplies and then leave for the day.

Mr. Homan asked which address the Special Use for a home workshop/business was applied to. Mrs. Wolgamood indicated he was originally on SR 13, but then the business was moved to the CR 30 and CR 37 location.

Mr. Hesser asked about the sign and the petitioner said they had one up, but didn't have a permit. Therefore, they had to take down the sign. Mr. Kolbus then indicated the sign condition is the only one out of six that he is in compliance with.

Mr. Hesser asked how many employees he had back in 1997. Mr. Graber said he had two employees apart from himself. He didn't think they were considered employees since they didn't work at the proposed site.

There were no remonstrators present.

As Mrs. Wolgamood reviewed the minutes from the previous request for a home workshop/business, she pointed out that Jay Graber was present to speak at the meeting. She read the minutes to the Board, which didn't state anything regarding outside storage. Mrs. Wolgamood believes the petitioner was aware of the outside storage because it was listed as one of the conditions for the home workshop/business.

Mr. Hesser said he's not hung up on that because he can easily see how the conditions could be exceeded over a long period of time.

The public hearing was closed at this time.

Mr. Homan indicated he has a concern because it's not completely agricultural. Mr. Hesser said this is clearly not a home workshop anymore.

Mrs. Wolgamood explained he is basically asking to eliminate the entire Special Use and request warehousing and storing. He has far exceeded the definition of a Special Use for a home workshop /business.

Mr. Kolbus said when anyone has any type of business with outside storage, the staff asks that their request be for warehousing and storage.

Mrs. Wolgamood asked what type of agricultural equipment they will be using. Mr. Graber said he buys and installs poultry equipment, such as water heaters, freezers, and fans. She asked if those are the items that are stored outside and the petitioner said yes.

Mr. Miller said he has an issue with all of the outside storage. He believes that most business owners who have that much growth would try to get the appropriate instruments in place so they are in compliance.

Mrs. Wolgamood asked Mrs. Prough how much equipment inventory the petitioner had. Mrs. Prough indicated she didn't go back to the inventory storage area. She looked at it from the front of the property, but her indication was that a great deal of the inventory was related to the fencing business. The displays out front were related to the fencing business as well.

Mrs. Prough said they did review that definition, because a large portion of it was for fencing and the staff determined it would be better for warehousing and storing.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Homan*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request

for a Special Use for warehousing and storing for vinyl fencing and agricultural equipment in an A-1 district (Specifications F - #44) be denied with the following conditions imposed:

1. The petitioner is allowed ninety (90) days to bring the property into compliance with the previous Special Use.
2. At the end of the ninety (90) days, if the Special Use is not in compliance, a different petition should be filed or it should come back to the Board as a staff item to discuss whether an extension is necessary.

A roll call vote was taken and the motion was unanimously carried.

14. The application of **Randy Miller** for a Special Use for a home workshop/business for a taxidermy business (Specifications F - #45) on property located on the West side of Oakwood Street, 325 ft. South of Sunnyfield Drive, being Lot 99 of North Manor, common address of 54337 Oakwood Street in Osolo Township, zoned R-2, came on to be heard.

One photo of the property was submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081297*.

Mrs. Prough indicated this petition is in the result of a complaint.

There were 27 neighboring property owners notified of this request.

Randy Miller, 54337 Oakwood Street, Elkhart, was present on behalf of this request. Mr. Miller had a taxidermy item of a fish on display as he gave his presentation to give the Board an idea of what he does. The petitioner then submitted a packet of photos of the property to the Board *[attached to file as Petitioner Exhibit #1]*. The petitioner indicated he agrees with the staff's recommendation.

Mr. Miller explained that after the initial processing is done, any organic material that is not going to be used will be placed in a container for the customer to take with them.

There will be no client traffic after 9:00 p.m. Mr. Miller said he works two jobs, so that won't be a problem. Most of the customers they work with are by appointments, so it's rare to have two clients there at one time. He doesn't believe traffic would be an issue.

The petitioner indicated he does currently have a 6 x 2 unlighted sign. He said the four sq. ft. sign is a little small. The sign could be put on his fence, but he thinks that would look tacky. He could also put up a freestanding sign in the yard, but that would be even bulkier.

They put the sign on the building for several reasons, one of which it keeps the building from looking like a tall box. In keeping with the actual property itself, the colors match the shutters, etc. The building is 93 ft. from the street to the building because it sets back behind the house. There has been more than one occasion where he has expected a client and they drive right by his house.

Mrs. Wolgamood asked what the size of the animals are. The petitioner said the bulk of what he does are white tail deer and shoulder mouths, but he will do whatever the customer pays for. Mrs. Wolgamood asked if he has done a bear and he said yes. The range is based on the clientele.

Mr. Hesser pointed out that the name of the business is painted on the door and asked if that is considered a sign. Mrs. Prough said they would consider that a sign because it's advertising. Mr. Miller indicated that sign is not visible from the front of the house. Mrs. Wolgamood clarified that it's designating the entrance.

Mr. Homan asked about the freezing of animals. Mr. Miller said the customer brings the animals to him skinned already. Some people process their own deer, but others have it commercially done. The only waste material that is usually left is the skull of the animal, which is kept frozen.

Mr. Miller indicated he spoke to the owner of Borden trash service and he doesn't have a problem with the trash pick up.

Mr. Miller said his big concern today is the sign because he would really like to keep the existing sign. He believes it adds professionalism to the business.

Mr. Hesser asked about the sign mentioned in the complaint and Mrs. Prough said it's referring to the sign on the garage.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood asked the Board members if they have a problem with the sign. Mr. Homan expressed that the problem is the definition of a home workshop/business. The Board and the Elkhart County Ordinance is very straight forward about the definition.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Homan*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for a taxidermy business (Specifications F - #45) be approved with the following conditions imposed:

1. One double faced sign permitted, four (4) sq. ft. per side and unlighted or one single faced sign, eight (8) sq. ft. and unlighted.
2. Arrangements must be made for immediate removal of animal waste material.
3. Hours of operation are to be 3:00 p.m. to 8:00 p.m., Monday through Sunday.
4. Approved for the owner/occupant of the residence on site.
5. The existing sign is to be removed within thirty (30) days and may be replaced with one that is in compliance.
6. The Special Use is to be renewed before the Board in three (3) years.

The motion was unanimously carried after a roll call vote was taken.

15. The application of ***Devon Lehman (owner) and Ora Lehman (business operator)*** for a Special Use for warehousing and storage of concrete building forms and bundled plastic granules in an A-1 district (Specifications F - #44.00) on property located on the East side of CR 27, 1,447 ft. North of CR 126, common address of 60260 CR 27 in Jefferson Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff [*attached to file as Staff Exhibit #1*].

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081293*.

There were 7 neighboring property owners notified of this request.

Barry Pharis, Brads-Ko Engineering & Surveying, 1009 S. 9th Street, Goshen, was present representing Devon Lehman and Ora Lehman. Mr. Pharis pointed out the site and the existing buildings. To the south is CR 126, SR 15 is to the west, and directly north is CR 24. In 2005, a Special Use for a saw mill was obtained for a two year period. The buildings were built and the saw mill was installed. In 2007, they requested a DPUD to remove the saw mill and start

a recycling business that would bundle paper and grind plastic. The neighbors raised a significant issue at the Plan Commission hearing about the process and manufacturing in an agricultural community, so the petition was withdrawn.

Mr. Ora Lehman and Mr. Devon Lehman have purchased a building on SR 15 and US 20 with all of the equipment there at this time. This building has been empty for a few months and the petitioners were approached by a contractor who constructs concrete hog barns. He has concrete forms and needs a place to store them. The building is 80 ft. wide by 200 ft. long with a concrete apron which allows him to unload the forms, claim them, move them inside, and store them inside.

With the request for warehousing, it made sense to consider their business up on SR 15 where they are grinding plastic into granules, storing them, and then shipping them back to the manufacturing facility. There are multiple kinds of plastic, which are all stored separately. It would make sense to be able to take these boxes by small truck and store them until they have a large enough shipment to take them back to the manufacturer. He is asking that the trucks be allowed to be stored at this location for one to three days. The petitioners don't anticipate having many of these trucks, but Mr. Pharis needs to express that if they are going to warehouse the granules, then they must transport them by semi.

The building looks like a barn and will function like a barn as far as storing and warehousing. It will have little impact on the neighbors and he asked that the Board grant the requested Special Use.

Mr. Kolbus asked if the sawmill is still in place because the DPUD was denied. Mr. Pharis said that is correct and Mr. Kolbus asked if they are willing to have that rescinded if this request is granted and he said yes.

Mrs. Wolgamood asked if the saw mill is there now and Mr. Pharis said no. Everything in the aerial photo that appears to be outside storage is gone.

Mrs. Wolgamood asked if there were large semi's coming and going previous to this proposal and Mr. Pharis said yes. They were having the large trucks come to the site in 2002 when the property was being operated as a saw mill. It is designed in such a way so the trucks can pull forward off of CR 27, back to the dock, and pull forward onto CR 27.

Mrs. Wolgamood asked if the Special Use for the saw mill was on the acreage that is outlined in the aerial photo or was it on another property. Mr. Pharis said no, it was just the acreage shown on the aerial.

The Board questioned whether or not there is a residence on that property and Mr. Pharis said it is adjacent to the south. He indicated that Mr. Devon Lehman owns both of those parcels.

Mrs. Wolgamood asked if his petition includes the residence and Mr. Pharis said yes. Mrs. Prough clarified that the physical residence is to the south, but in a portion of the building to the west, there is a residential use there. They came in and obtained a building permit to convert a portion of the building for residences, which Mr. Devon Lehman occupies.

Mrs. Wolgamood asked if the average number of trucks per week would be five and Mr. Pharis said yes. She questioned if that was how many the saw mill had and it was indicated that the saw mill was significantly higher than that, which was the issue with the neighbors.

Mr. Hesser asked how many days a month trailers will be sitting there.

Ora Lehman, 16482 CR 18, Goshen, indicated the truck and the trailer will be there every once in a while. They are working with a local manufacturer in Goshen and they drop the trailer off and pick it up the next day if it is filled. Usually, it would only be there for a couple of days

and it would be rare for it to happen more than one or two times a week. Mr. Pharis indicated they could limit it to one time per week.

Mrs. Wolgamood asked if the entire building will be used for storage and Mr. Pharis said yes, they need a lot of space in the building to move their supplies around. The granules come in boxes and they use a forklift to take them in and out of the semi. He indicated they won't be stored outside.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if they should terminate the other Special Use if this is approved. Mr. Kolbus suggested including it as a condition that it be rescinded.

Mr. Hesser said he's not concerned about a time frame since there weren't any complaints on the previous Special Use. Mrs. Wolgamood indicated since it's a new use and a new person who's operating the business, she would like to have a staff review in two years. The staff review could verify that things are being stored inside instead of outside.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Wolgamood*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for warehousing and storage of concrete building forms and bundled plastic granules in an A-1 district (Specifications F - #44.00) be approved with the following conditions imposed:

1. No outside storage with all materials to be maintained inside.
2. No outside activities except for the transfer of materials from delivery vehicles.
3. No backing of vehicles onto CR 27.
4. The previous Special Use for a saw mill (#20021959) be rescinded as part of the action.
5. Approved with a staff review every two years for an ongoing basis.

A roll call vote was taken and the motion was carried unanimously.

16. The application of ***Maple Lawn Amish Mennonite Church*** for an amendment to an existing Special Use for a church (Specifications F - #48) and cemetery (Specifications F - #6) to include a school in an A-1 district (Specifications F - 338) on property located on the North side of CR 52, 1,500 ft. West of CR 3, common address of 29267 CR 52 in Locke Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff [*attached to file as Staff Exhibit #1*].

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081289*.

There were 8 neighboring property owners notified of this request.

Thomas Mast, 27770 CR 38, Nappanee, was present on behalf of this request. Mr. Mast explained they would like to amend the existing Special Use to add a new structure that would be a school.

Mr. Miller asked if the design work has been done and Mr. Mast indicated they are waiting for the permission from the Board. They are proposing an 8,000 sq. ft. building and they would like to use the existing entrance off of CR 52.

Mrs. Wolgamood asked if the school and the church are on one property. The petitioner said the parcel for the church is rectangular, but the Special Use for the church is for the property that's not included in the yellow line shown on the aerial photo.

Mrs. Wolgamood then asked if there will be any new curb cuts and Mr. Mast said no.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Burrow clarified that the file includes the church, school and cemetery all on one property. The church is under a special use also.

Finding #3 of the Staff Analysis was amended to read: "*Will substantially serve the public convenience and welfare by providing a place of learning for the area youth.*"

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Wolgamood*) that the Board adopt the modified Staff Analysis as the Findings of the Board, and based upon these Findings, this request for an amendment to an existing Special Use for a church (Specifications F - #48) and cemetery (Specifications F - #6) to include a school in an A-1 district (Specifications F - #338) be approved with the following conditions imposed:

1. All state and local permits and inspections be obtained.
2. Approved with the existing curb cut to be used.

After a roll call vote was unanimously taken, the motion was carried.

17. The application of *Crystal Smith (buyer) and Gabriela Zimmerman (seller)* for a Special Use for a kennel with indoor pens and outdoor walking area (Specifications F - #15.10) on property located 1,420 ft. North off of CR 8, 8,870 ft. West of Barrington Lane, common address of 21513 CR 8 in Washington Township, zoned A-1, came on to be heard.

There were 20 neighboring property owners notified of this request.

Mrs. Prough indicated the staff received a fax from Ms. Smith prior to the meeting stating that she would like to table her request to next month due to an illness.

An audience member indicated that the business is currently in operation. He expressed a concern about the petitioner being able to operate the business for the next 30 days until the April meeting.

Mr. Hesser asked if anyone else was present in the audience to speak on this request and there were six people present.

Mrs. Prough asked Mr. Kolbus what the Board's options are. Mr. Kolbus said the Board generally gives the remonstrators the option to testify today without hearing the actual petition. They also have the option to come back next month.

Mr. Hesser asked if the petitioner is someone who has operated with the staff's inquiries. Mrs. Prough said the staff did receive a complaint and after doing an on-site visit, it was concluded that the business is in operation. Ms. Smith immediately filed for the Special Use after she found out she was in violation. Mrs. Prough indicated she has not received any additional complaints, but there was a letter received on March 17, 2008 from one of the neighbors with a concern about the barking.

Mr. Hesser gave the remonstrators the option to speak at today's meeting or they could come back and speak at the meeting on April 17, 2008, when the petitioner would be present to address their concerns.

Joel Putnam, 21643 Brockton Court, Bristol, was present to speak in opposition to this request. Mr. Putnam said he represents the Pheasant Ridge Homeowner's Association and this property is very close to one of their property lines. After checking with the Elkhart County Building Department, he discovered there is no permit on file for the detached garage or house.

Jim Bache, 53602 Woodfield Lane, Bristol, was also present as a representative of the Pheasant Ridge Homeowner's Association. Mr. Bache said the aerial photo is very outdated because they currently have 12 more homes which aren't reflected on the photo. Mr. Bache then submitted an aerial photo to the Board showing the newly built homes in red *[attached to file as Remonstrator Exhibit #1]*. He also pointed out the tennis courts on the aerial and indicated they have put in a large playground and swing set area. The recreation area is very family oriented and several children play there. Mr. Bache indicated there is a berm on the east side of the property.

On three different occasions, Mr. Bache explained he had to call the Sheriff's Department due to loose dogs from the proposed property. The dogs were somewhat aggressive towards people who were running, walking, or biking throughout the neighborhood. He believes the business is valuable to the community, but he's concerned about the location of it in such a highly residential area. Mr. Bache then submitted a letter to the Board from the Pheasant Ridge Homeowner's Association stating all of the concerns regarding the Special Use for a kennel at this location *[attached to file as Remonstrator Exhibit #2]*.

Ross Weldy, 2505 Waterbend Drive, Elkhart, indicated he had just purchased the property to the south of the proposed location. In order to get access to the property, he was required to have a legal easement. Mr. Weldy's concern is that the one lane road going to CR 8 is an illegal easement. He understands that CR 8 is going to become a four way highway. If there is a business with a one way road, it will hold up traffic on CR 8. They wouldn't be able to get a curb cut to make it a two lane road because it's not their property. He doesn't mind if his easement is used for personal use, but he doesn't want it used for business. Mr. Weldy is opposed to this request if the road remains an illegal easement. He also indicated that the dogs barking would also be a problem since he is currently building in this location.

Chris McDonough, 53769 Pheasant Ridge Drive, Bristol, was present in opposition to this request. Mr. McDonough pointed out his property on the aerial photo, which is located to the southwest corner of the proposed property. The road behind his property belongs to him and there is deeded access to the back of it. He indicated the petitioners are already running the business. There used to be one car that would go down the road each day, but now there are around nine cars on the road per day. Mr. McDonough has a safety concern for the children who play in his backyard and he's also not sure whether or not the road is legal.

There were no remonstrators present.

Mr. Hesser indicated the public hearing will remain open.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that this request for a Special Use for a kennel with indoor pens and outdoor walking area (Specifications F - #15.10) be tabled until the April 17, 2008, Board of Zoning Appeals meeting with neighboring property owners to be re-notified. A roll call vote was taken and the motion was unanimously carried.

18. The application of **Daniel R. Mullet** for a Special Use for a home workshop/business for metal cutting, wood routing and tool sharpening business (Specifications F - #45) and for a Developmental Variance to allow the total square footage of accessory structures (4,064) to exceed the total square footage of the primary structure (2,310), a difference of 1,754 sq. ft., on property located on the West side of CR 15, 1/4 mile South of CR 36, common address of 64297 CR 15 in Harrison Township, zoned A-1, came on to be heard.

Mr. Burrow read a letter from Attorney Loren Sloat stating that he concurs with the Staff's Recommendation to table the request until the April 17, 2008 meeting to allow the petitioner to resolve the issues listed in the staff report.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081295*.

There were 8 neighboring property owners notified of this request.

Ron Schrock, 1428 Hampton Circle, Goshen, was present to voice a concern regarding this request. Mr. Schrock indicated he lives on property to the northwest of the petitioner. He has some concerns regarding noise, but he is willing to come back next month when the petition is heard again.

Mrs. Wolgamood indicated she would like to have all of the neighboring property owners re-notified.

There were no remonstrators present.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for metal cutting, wood routing and tool sharpening business (Specifications F - #45) and for a Developmental Variance to allow the total square footage of accessory structures (4,064) to exceed the total square footage of the primary structure (2,310), a difference of 1,754 sq. ft., be tabled until the April 17, 2008, Board of Zoning Appeals meeting with neighboring property owners to be re-notified. A roll call vote was unanimously taken and the motion was carried.

19. The application of **Ron Frost** for an Appeal to allow for the construction of a second residence on a single zoning lot on property located on the West side of CR 33, 1,750 ft. South of CR 29, common address of 51447 CR 33 in York Township, zoned A-1, came on to be heard.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081298*.

There were 11 neighboring property owners notified of this request.

Ron Frost, 51447 CR 33, Bristol, was present on behalf of this request. He indicated he got a permit last year for a Special Use for a mobile home. The permit was originally for his mother-in-law and father-in-law. In December of 2007, Mr. Frost's father-in-law passed away. Instead of putting a mobile home on the property, they would like to place an efficiency on the front of the barn for his mother-in-law. Mr. Frost submitted a detailed site plan to the Board *[attached to file as Petitioner Exhibit #1]*.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked Mr. Kolbus if he could state that it's approved for a family member of the owner/occupant instead of stating "petitioner's mother" in condition #2. Mr. Kolbus said if you expect it to be for a shorter duration, the Board can state a specific parent.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Homan*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for an Appeal to allow for the construction of a second residence on a single zoning lot be approved with the following conditions imposed:

1. The residential quarters in the horse barn is to be constructed to the 1 & 2 family building codes with a firewall between the residence and the agricultural use.
2. The residential area is to be converted to a tack room for the horse barn when no longer occupied by the mother of the owner/occupant (of the existing residence on site).

A roll call vote was taken and the motion was carried unanimously.

20. The application of *Sarah Kagondu* for a Special Use for a home for the aged in an A-1 district (Specifications F - #53) on property located on the Northwest corner of CR 1 and CR 108, being Lot 1 of Parkview Estates, common address of 54489 CR 1 in Cleveland Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Burrow presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081119*.

There were 16 neighboring property owners notified of this request.

A motion was made and seconded (*Homan/Hesser*) that the public hearing be re-opened. A unanimous roll call vote was taken and the motion was carried.

Sarah Kagondu, 54489 CR 1, Elkhart, was present on behalf of this request. Mrs. Kagondu explained that she met with the staff from the Building Department concerning the number of clients. She only needs a permit from the Government if she's caring for more than five people in her home. She also indicated she has met the Americans with Disabilities Act regulations. A wheelchair ramp will also be on the property.

Mr. Hesser asked if they will have anymore than one employee and Ms. Kagondu said she will be living in the facility and will have one additional employee.

Mr. Kolbus indicated Mrs. Wolgamood has read the minutes from last month and has made herself aware of the situation, so she will be voting today.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan recalled that last month's discussion was regarding the attributes of a residential home being built that would accommodate a business of caring for the elderly. The site plan does cover those issues and the staff's recommendation is favorable.

Mr. Homan suggested having this approved for owner/occupant.

Mrs. Wolgamood suggested having a turn-around on site as one of the conditions.

Mr. Miller asked if they should address the number of employees and Mr. Hesser suggested allowing one outside employee.

Mr. Homan asked if she understands that there should be sufficient space to turn a car around in the driveway. Mrs. Kagondu indicated there is enough space to turn around.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Wolgamood*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for a Special Use for a home for the aged in an A-1 district (Specifications F - #53) be approved with the following conditions imposed:

1. Approved as per revised site plan submitted on February 25, 2008.
2. The number of clients limited to four (4).
3. All state and local permits to be obtained.

4. Petitioner should contact the local fire department to explain the health situations of clients.
5. Adequate area is to be provided for turn around to facilitate no backing of vehicles onto CR 1.

A roll call vote was taken and the motion was unanimously carried.

** Mr. Hesser stepped down from the Board due to a potential conflict of interest. Mr. Kuhns was present to take his place for the hearing of this petition. **

21. The application of **Mike & Laquita Closson (land contract purchasers) and Larry Smith & Andrew Odebrecht (land contract holders)** for a Use Variance for a lawn service business, and for an Appeal for the construction of an accessory structure prior to the construction of a residence on property located on the Southwest corner of CR 20 and CR 31 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20074109*.

There were 9 neighboring property owners notified of this request.

Mr. Kuhns indicated he has reviewed the minutes and the site.

A motion was made and seconded (*Homan/Miller*) to re-open the public hearing. A unanimous roll call vote was taken and the motion was carried.

Laquita Closson, 19462 Country Creek Court, Goshen, was present on behalf of this request. Mrs. Closson indicated she and her husband listed their house with a real estate agent and sold it in three weeks. They have all of their house plans done and all of the permits have been pulled. Mrs. Closson indicated the builder was present in the audience with all of the house plans. They hope to have the house started in May and finished by the end of August.

Mrs. Wolgamood asked if they are planning to build the house and the pole barn simultaneously and she said yes, if they are able to do so.

Mr. Kolbus indicated the timing was the issue of the Board in January. At that time, there was nothing known about the sale of the home.

Mr. Homan said the testimony has changed and he doesn't see how they can rule on this without a site plan and a staff review. Mrs. Closson indicated she has the site plan.

Mr. Kuhns asked if it would be a home workshop/business instead of a Use Variance. He said they need to vote on the request as the petition is presented.

Mr. Homan said if they are going to allow the buildings to go up simultaneously and allow the lawn service business, then the Board should be prepared to set the hours of operation and outside storage should be addressed.

Terry Smith, 55114 CR 27, Bristol, indicated he has been the owner of Maranatha Builders for 20 years. Mr. Smith said he is very good friends with the family and he has agreed to guide them through the process as the builder. The building, septic, and driveway permits have all been pulled. In doing so, the site plan was given to the building department, which shows the location of the barn. Mr. Smith submitted an updated site plan to the Board [*attached to file as Petitioner Exhibit #1*].

Mr. Smith indicated they would like to put the main meter on the barn and then run it to the house. Therefore, the barn and the house need to be built simultaneously.

After talking to Susie Neff from the Elkhart County Highway Department, it was determined that it won't be a problem having two driveways if the Board approves the site plan as drawn. Since it's on a corner, there would be one driveway on both of the county roads.

Mrs. Closson indicated the business is run by her and her husband. They have two dump trucks, trailers, and commercial mowers. Everything will fit inside the trailer and there will be no outside storage. They have two employees that come to the business, which would make four all together. The site has plenty of parking and there will be no backing onto the county roads. There is ample room for turn around on site. The petitioner said they only mow grass, fertilize, and do aerations.

Mr. Kolbus asked how they dispose of the grass clippings. Mrs. Closson indicated they have a contract with the city and they take care of their clippings there.

Mr. Homan asked about hours of operation, and the petitioner explained they work Monday through Friday. If they have rain during the week, sometimes they work on Saturday. Generally, they start around 7:00 a.m. and work until about 6:00 p.m. There wouldn't be a lot of loud noise at all. Loading the trailers and unloading the trailers are the main things they will be doing at the site.

Mrs. Wolgamood asked if they can drive in straight and the petitioner said yes.

Mr. Homan asked if they plan to get any larger and Mrs. Closson said no, they are staying right where they are at currently.

There were no remonstrators present.

Mr. Kuhns said he has a concern about accessing the lawn service business on a separate county road. He suggested they put a condition stating that the property will not be split and it must stay a single parcel.

Mr. Kolbus suggested stating the owner/occupant of the home must be the owner of the business.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Wolgamood*) that this request for a Use Variance for a lawn service business, and for an Appeal for the construction of an accessory structure prior to the construction of a residence be approved with the following conditions imposed:

1. Approved for the construction of the accessory building substantially simultaneous with the construction of the residence approved as per site plan submitted by the petitioner.
2. All vehicles, trailers, and equipment supplies are to be stored within the accessory building.
3. The business is limited to two (2) outside employees with additional employees to be approved by the Board.
4. The hours of operation are to be Monday through Saturday, sun up to 6:00 p.m.
5. The Use Variance for the lawn service business is to be owner occupied.
6. No backing of vehicles onto CR 20.
7. No outside storage is allowed on site.
8. No grass clippings or debris is to be stored or placed on the property.
9. The site plan approval is with two (2) driveways as per submission.

Unanimously, a roll call vote was taken and the motion was carried.

** Mr. Hesser returned to the Board at this time. **

22. The application of **Carl Johnson** for a 2 ft. Variance to allow for a detached garage under construction 4 ft. (from the overhang) from the north property line (Ordinance requires 6. ft.) on property located on the West side of Southwood Drive, 350 ft. South of Plainfield Drive, 1,200 ft. West of CR 5, being lot 40 of Zook's Block C, common address of 54141 Southwood Drive in Osolo Township, zoned R-2, came on to be heard.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20074090*.

There were 9 neighboring property owners notified of this request.

Mrs. Prough submitted a packet of photos to the Board that were taken by Mr. Slater on March 18, 2008 *[attached to file as Staff Exhibit #1]*.

Mrs. Wolgamood suggested that the date on the Staff Report be changed to March 20, 2008 instead of February 21, 2008.

Mrs. Wolgamood asked to see the photos from the last meeting.

Carl Johnson, 54141 Southwood Drive, Elkhart, indicated the two trailers are plated, but the plate broke off of the small trailer.

Mr. Homan asked if the garage is finished, but Mr. Johnson said no. His contractor told him that there is a law on how high garages can be, so he filed in January. It still needs to be shingled and sided as well as the garage door.

Mr. Homan asked how soon he wants to get it shingled. Mr. Johnson said his contractor is ready to start. He pointed out the location of the garage in the northwest corner. The property owner has no objection.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Wolgamood*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a 2 ft. Variance to allow for a detached garage under construction 4 ft. (from the overhang) from the north property line (Ordinance requires 6 ft.) be approved as per site plan submitted. A roll call vote was taken and the motion was carried unanimously.

** Mr. Hesser stepped down from the Board at this time due to a potential conflict of interest. **

23. The Board then discussed the staff item regarding Elkhart County Gravel. Mr. Burrow said the issue is whether or not Elkhart County Gravel could excavate so close to the city and town's tower. Mr. Kolbus indicated the letter stated a bond or study susceptible to the Board and the town after a public hearing. Mr. Burrow said it must have a public hearing and Mr. Kolbus indicated they need something saying the town is agreeable. Mr. Burrow suggested the Board say in their recommendation that they need to secure approval from the town before filing or they must comply with the standards.

24. There were no items transferred from the Hearing Officer.

25. There were no audience items.

26. There were no Staff/Board items.
27. The meeting was adjourned at 12:04.

Respectfully submitted.

Kate A. Barghahn, Recording Secretary

Randy Hesser, Chairman

Tom Lantz, Secretary