

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 15th DAY OF MAY 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, Tom Lantz, Doug Miller, and Meg Wolgamood. Staff members present were: Robert Watkins, Plan Director; Larry Harrell, Zoning Administrator; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; Ann Prough, Code Enforcement Officer; Mick Slater, 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 meeting of the Board of Zoning Appeals held on the 17th day of April be approved as read. The motion was carried with a unanimous roll call vote.
3. A motion was made and seconded (*Wolgamood/Lantz*) that the legal advertisements, having been published on the 3rd day of May 2008 in the Goshen News and on the 5th day of May 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 (*Miller/Wolgamood*) 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 (*Homan/Lantz*) 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 **Steve Adams** for a Use Variance for an amusement center in an M-1/R-1 District on property located on the West side of CR 105, 1,700 ft. South of Mishawaka Road, common address of 58095 CR 105 in Concord Township 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081721*.
There were 19 neighboring property owners notified of this request.
Cindy Smith, 57423 Horseshoe Court, Goshen, was present on behalf of this request. Ms. Smith explained they would like to put a pumpkin farm in on the proposed land to sell pumpkins, gourds, have a corn maize, and also have a few animals for children to view.
Mr. Hesser asked if she will be primarily operating from September through December and Ms. Smith said yes, only during the fall season.
Jean Ramsey, 27484 Charles Street, Goshen, was present to voice some concerns. Ms. Ramsey indicated they have a severe flooding problem in the area that has increased with the

hotels and the strip mall that has gone in on SR 19. She would like to know the hours of operation and how her street would be involved as far as traffic. Another concern Ms. Ramsey has is safety from the children who wander off of the proposed property. The location of her property was then pointed out on the aerial photo.

Also present to voice some concerns was Paul Selman, 27417 Charles Street, Goshen. Mr. Selman said CR 105 goes south uphill and there is a gentle grade up to CR 20. The proposed land is at the bottom of the hill and flooding occurs into Ms. Ramsey's yard and further on down the road. The water exceeds useful proportions of absorption into Ms. Ramsey's property. Mr. Selman suggested having a culvert at the end of the road and a receiving base on the property in question.

Any proposed lighting on the property is also a concern. He pointed out that Eastern Daylight Time turns to Eastern Standard Time in October and it becomes dark by 5:30 in the evening. Mr. Selman doesn't believe a business can operate without lights and he would like to encourage lights that only point downward.

Pumpkin farms, corn maizes, and small animals attract the interest of school groups. Mr. Selman asked if they will have cleaning stations for the children who pet the animals.

A concern was also expressed regarding the sales of food. He questioned whether the food will be openly dispensed or if it would be containerized vending. Lastly, he asked that there be something discouraging customers from parallel parking.

Bob Ranta, 27435 Charles Street, Goshen, was also present regarding a zoning concern. He is concerned about the pumpkin sales building being located in the R-1 area of the property. He is opposed to having that building in the residential area and would like it to be moved further west into the M-1 area. Mr. Ranta believes the R-1 area should stay exactly like it is and they should only be granted access across that area to get to the M-1 part of the property.

There were no remonstrators present.

Regarding the remonstrators concerns, Ms. Smith verified there will be no food sold on the property. She explained that the parents will be bringing the children to the property to pick out pumpkins and get fall decorations, so she doesn't see a problem with children running around. The parents will be present and they can control their children.

Ms. Smith indicated she doesn't understand the issue with flooding and as far as lights, she can point them down.

Mr. Hesser asked if there is currently a driveway on the property and Ms. Smith said only where the house is located. They will be putting in a driveway off of CR 105 as well as a parking area on the empty lot for customers. The location of the house was then pointed out on the aerial photo.

Steve Adams, 59200 CR 1 South, Elkhart, was also present on behalf of this request. Mr. Adams indicated they want to have the parking in the northeast corner of the parcel. When the driveway is put in going back to the parking area, they were going to put a culvert in because he knows about the flooding issue. He wondered if the Elkhart County Highway Department should take care of that and install a catch base.

Mrs. Wolgamood asked if there is going to be a petting area for the animals and Ms. Smith said no. The animals will only be there for viewing, but no petting. Mrs. Wolgamood questioned how she will do that. Ms. Smith said they will make a fenced in area with a lean to and leave them in there.

Mrs. Wolgamood asked what the hours of operation would be and Ms. Smith said approximately noon to 7:00 p.m. Most of their business will be in the evenings when people get off work and on the weekends. They aren't planning to be there late because it does get darker earlier in the fall season.

The staff map indicates that the R-1 part of the property is 200 ft.

Mr. Miller asked if they will be closing at dusk without lighting, and Ms. Smith said they aren't going to be there late in the evening. If they were there later than dark, then they would add lights pointing down. She assured the Board that she would respect the neighbor's concerns.

Mr. Hesser asked if they would have conditions or restrictions of operation if this request were approved and Mrs. Wolgamood said yes, absolutely.

Mr. Kolbus asked the Board if they felt like they had enough information. Mr. Hesser said he would rather wait to vote until the Board has a site plan and conditions all together because they may need more information and input.

Mrs. Wolgamood indicated the following things should be addressed on the site plan: Entrance/exit, parking, number of acres allotted for the corn maize, fencing around the maize to provide the neighboring property owners protection from trespassers, number of animals, fencing, days and hours of operation, lighting, parking surface, drainage through talking with the Elkhart County Highway and Engineering Department, and location of parking for the buses.

Mr. Homan agreed, but he doesn't believe the drainage is the responsibility of the owner. He then asked the Board how they feel about the accessory building being on the R-1 part of the property. He explained that accessory buildings are not allowed without a primary structure in R-1 districts.

Mr. Homan asked if the entire property will be used as a corn maize and Ms. Smith said one acre will be used for corn, six to eight acres will be used for pumpkins, and half an acre will be used for gourds. These areas will be towards the back of the property and past the R-1 area.

Ms. Smith said there is an area where buses can pull in, so there will be no parking on the road. The parking will be front of where the building will be located.

Mrs. Wolgamood indicated she would like to see a more detailed site plan. Mr. Lantz agreed and said she needs be a little more specific.

Ms. Smith asked if she would need to wait another month and the Board said yes. She explained that now is the time to plant the pumpkins, so if they wait another month then they won't be able to do it.

Mrs. Wolgamood said there's nothing stating she can't plant pumpkins or corn on that property. She would be permitted to do that because it's an agricultural use.

Ms. Smith said if they planted the pumpkins and then the petition was denied, the pumpkins couldn't be sold. Mrs. Wolgamood said that would be a chance she would have to take.

Mr. Hesser asked the staff if they would be in favor of tabling the request for one month and they indicated yes.

Ms. Smith asked if the Board would like to have blueprints and Mr. Kolbus said she could meet with the staff to address those issues.

Mr. Hesser indicated the public hearing will be left open to allow discussion on the new site plan when submitted.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Lantz*) this request for a Use Variance for an amusement center in an M-1/R-1 District be tabled until the June 19, 2008, Board of Zoning Appeals Meeting with a detailed site plan to be submitted to the staff by June 9, 2008, addressing the following items so the staff can prepare a list of conditions:

1. Entrance/Exit
2. Parking
3. Number of acres allotted for the corn maize
4. Fencing around the maize to provide for the neighboring property owners' protection from trespassers.
5. Number of animals
6. Days and hours of operation
7. Lighting
8. Parking surface
9. Drainage
10. Location of parking for buses

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

8. The application of **Robert G. Scrogam (landowner) and Sunnyland Construction (business owner/operator)** for a Special Use for warehousing and storing for a construction business (Specifications F - #44) on property located on the South side of CR 4, 2,047 ft. West of East County Line Road, common address of 10396 CR 4 in York 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081716*.

There were 12 neighboring property owners notified of this request.

Nelson Miller, 51749 East County Line Road, Middlebury, was present on behalf of this request. Mr. Miller explained that he is a remodeling contractor and he would like to have his building material stored in an on-site building. The materials are loaded up in the morning and then they leave to go to the job site for that day.

The building which is on the proposed property has a shop and an office building in it. Mr. Miller indicated they do minimal work in the building, which includes loading materials and having meetings.

Mr. Homan asked if he can meet the restriction of having no outside storage. Mr. Miller indicated he has a dump trailer which is normally stored behind one of the pole barns. He also indicated that he uses a diesel construction truck and that is always parked inside the building. When the dump trailer is pulled in behind the barn, it isn't visible from the road.

Mrs. Wolgamood said it seems that most of the complaint was regarding burning. She asked if he ever plans on doing that again and the petitioner said no. The homeowner had some things he said he had burned before, so Mr. Miller was just trying to help out and clean up the property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan said it should be indicated in the conditions that there will be one trailer parked outside. He personally thinks if it's behind the building and is only one trailer, then he doesn't have a problem with it. Mrs. Wolgamood agreed. She indicated that this request is for warehousing and storing and is not a request for a home workshop, which would require them to store everything inside.

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, and in accordance with the petitioner's questionnaire and site plan submitted, this request for a Special Use for warehousing and storing for a construction business (Specifications F - #44) be approved with the following conditions imposed:

1. No outside storage of business related vehicles, equipment, or materials, except that the construction dump trailer may be stored behind the barn, as represented by the petitioner.
2. No burning on site.
3. Special Use limited to the 3.76 acres as represented.

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

9. The application of *Ian & Stacie Simmons* for a Special Use for a beauty shop in an A-1 district (Specifications F - #46) on property located on the West side of CR 133, 642 ft. South of CR 52, common address of 71621 CR 133 in Benton Township, 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081678*.

There were 19 neighboring property owners notified of this request.

Stacie Simmons, 15172 Elkhart Street, Goshen, was present on behalf of this request. Mrs. Simmons indicated they are building a house and they don't yet live at this proposed location. Once the home is built, she is hoping to put a beauty salon in her home with very low activity. He only wants a small business with approximately 20-30 hours per week.

Mr. Hesser asked if there is currently a house on the property and Mrs. Simmons said no, they are in the process of building.

Mrs. Wolgamood said the questionnaire indicates a two chair salon. Mrs. Simmons said they will set it up as a two chair salon with the possibility of having another employee in the future. The second chair is not of importance now, but she would like to have that option.

Mrs. Simmons said she doesn't want this to be a large business. She has two small children and would like to be at home as much as possible, but also have some time to work.

Mr. Homan asked why this came as a Special Use for a beauty shop and not a home workshop/business. Mrs. Wolgamood indicated it's listed under Special Uses as a beauty shop and a home workshop/business is listed under Specifications F - #45.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser said the staff recommendation doesn't state a number of employees and asked if they need to specify that. Mr. Kolbus said the Board needs to specify that since this is not a home workshop/business.

Mr. Hesser pointed out that the hours of operation in the staff's recommendation are longer than what she requested in her questionnaire. Mrs. Simmons indicated she doesn't work past 7:00 p.m.

Mr. Homan asked if it's typical for her to start working around 8:00 a.m. and she said yes, but definitely not any earlier than that.

Mrs. Wolgamood suggested specifying two chairs and one outside employee apart from herself.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/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 beauty shop in an A-1 district (Specifications F - #46) be approved with the following conditions imposed:

1. Approved for the owner/occupant of the residence on site.
2. Sign limited to four (4) sq. ft. per side and unlighted.
3. Hours of operation to be 8:00 a.m. to 7:00 p.m., Monday through Saturday.
4. The beauty shop is to be limited to two chairs.
5. Beauty shop limited to one employee other than the owner/occupant.

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

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

10. The application of *Goshen Community Schools (Goshen Intermediate School) (owner/buyer) and Jay Essig (seller)* for a Special Use for an intermediate school in an A-1 district (Specifications F - #38) on property located on the Northwest corner of SR 119 and CR 19 in Elkhart Township, came on to be heard.

Mr. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081673*.

There were 29 neighboring property owners notified of this request

Michael Miller, Wightman Petrie, 4703 Chester Drive, Elkhart, was present representing Goshen Community Schools. Mr. Miller said they are in the beginning stages of the development of the school. Currently, they are planning on complying with any state or local drainage issues. The highway plans would be through the state, county, and city. He indicated the utilities would be city services.

Mr. Lantz asked how big the school is going to be and Mr. Miller said it will be around the same size as the current junior high. He indicated there will be a lot of outdoor paths, trees, and bushes.

Mrs. Wolgamood asked where the city services are currently located. Mr. Miller indicated he would have to look into that, but he believes they are on the corridor on SR 19, but they plan on extending it to the site.

Mr. Kolbus said the staff believes the subdivision immediately north, Windshire Corp, is on city sewer. Therefore, city sewer is in the immediate vicinity. Mr. Miller said there are storm features as well as septic running on SR 119.

Mrs. Wolgamood asked if they have had conversation with the Elkhart County Highway & Engineering Department as well as the state. Mr. Miller said he has not yet done that. She then asked if there is any landscaping or proposed signage. Mr. Miller said there would be a sign on each main road and there would be landscaping such as trees, natural pathways, and shrubs.

Bruce Stahly, Superintendent of Goshen Community Schools, 714 Bainbridge Place, Goshen, was present in favor of this request. Mr. Stahly said they plan on building this school around the size of 1,000 students. Part of the reason they purchased this site was because of the access to the sewage and all of the utilities were very close to the property. Mr. Stahly said they will have drainage on site for the entire area.

Allen Robinson, 63286 CR 19, Goshen, was also present in favor of this request. Mr. Robinson said he is a neighbor across the road from the proposed project. He is one lot southeast of the Windshire Corp Subdivision and the water and sewer lines do run that far and work fine. He believes the water and sewer lines run on the west side of CR 19, so the school won't have any problems accessing them.

Mr. Robinson's only concern is how they will handle the surface water. The CR 36 drainage project that the county took over around a dozen years ago alleviated about two thirds of the water that came down in that area. There are still some serious issues that they need to look at. It won't affect his property, but Mr. Robinson is glad to hear that the Board will look at that rather seriously. He was also glad that the neighbors were able to have input.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood said she thinks they have preliminary done a good job. She suggested that the petitioner come back to the Board when the final plans are available so they can see the landscaping, ingress, egress, drainage, etc. She explained that there are a lot of issues that haven't been addressed and the neighboring property owners should be able to address the final plans as well.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/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 an intermediate school in an A-1 district (Specifications F - #38) be approved with the following conditions imposed:

1. No development until the drainage issues have been resolved.
2. All state and local permits and inspections must be obtained.
3. Entrances must comply with Elkhart County Highway and State Highway specifications.
4. Property to be developed with the benefit of city services.
5. The final site plan is to be submitted to the Board of Zoning Appeals with a public hearing at that time.

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

11. The application of *Life Tabernacle Church (buyer) and Pheasant Ridge Development (seller)* for a Special Use for a church (Specifications F - #48) on property located on the Northeast corner of CR 26 and CR 13 in Concord 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*].

Mr. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081711*.

There were 29 neighboring property owners notified of this request.

Ross Miller, FM Stone Commercial, 421 S. 2nd Street, Elkhart, was present to represent Life Tabernacle Church. Mr. Miller indicated that the Pastor of the church, Mark Johnson, was unable to attend today's meeting due to a church related family emergency. He then indicated that the Vice President of the Church was present in the audience.

Mr. Miller said they are asking to build a church on this property and indicated that everything is very preliminary at this point. Everything will be properly submitted when they are ready to the pull the permit.

The northwestern corner of the site is now a large retention pond that was created for the subdivision on CR 13, which will be used for drainage. The site where the church will be constructed is the highest portion of the land, so the drainage will be coordinated with what already exists.

Mrs. Wolgamood asked what they plan to do with the rest of the property and Mr. Miller said some of it will be a recreation area. For the present time, the land will be vacant until they decide what they want to do with it. There have been some people interested in buying portions of it to construct houses.

Mrs. Wolgamood said the site plan only shows about 6.5 acres of the 35 acres. She asked why the site plan shows lot numbers and Mr. Miller clarified that Pheasant Ridge Development owned the property before, but the church solely owns it now. When Pheasant Ridge owned the land, they had started preliminary plat work to make it into a subdivision, but it was never filed.

After speaking with Mr. Kanney, Mrs. Wolgamood discovered that the retention area is platted and recorded, so it won't go away. She also spoke to him about the trunk line that goes through the property. The trunk line area was then pointed out on the aerial photo and Mrs. Wolgamood submitted a drawing showing its location *[attached to file as Staff Exhibit #2]*.

Mr. Miller also submitted a copy of the church plans to the Board *[attached to file as Petitioner Exhibit #1]*.

Mr. Homan said the petition speaks about the church and related structures. He asked what the related structures are referring to and Mr. Miller said there may be a school there at some point, but they aren't sure right now.

Mrs. Wolgamood said they submitted a site plan for a church and they need to stick to this particular request. If they wanted to add another building in the future, Mr. Harrell normally requires them to come before the Board for an amendment.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan asked if the site plan should come back to the Board when it's finalized. Mr. Kolbus said their options are to have it reviewed by the staff, have it as a Board item, or it could be scheduled for a public hearing. Mr. Homan said he would prefer having the staff review the finalized site plan. If they have a problem, then it could be brought back before the Board.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/Miller*) 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 church (Specifications F - #48) be approved with a properly engineered site plan to be submitted to the staff for review prior to any development on site.
A roll call vote was taken and the motion was carried unanimously.

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

12. The application of **Elkhart County Park & Recreation** for a Special Use for a public park (linear park) (Specifications F - #29) on property located North off of CR 28, 2,840 ft. to CR 127 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081715*.

There were 19 neighboring property owners notified of this request.

Dan Seldenright, 211 W. Lincoln Avenue, Goshen, was present representing the Elkhart County Parks & Recreation Department. Mr. Seldenright explained that they are currently in the process of extending the existing Pumpkin Vine Trail, which currently ends at CR 28. The trail will be extended generally east, from CR 28 to CR 127. The approximate length of the extension will be about one half of a mile.

The land in question was previously owned by the friends of the Pumpkin Vine Nature Trail, Incorporated. The land was recently donated to the Elkhart County Recreation Board and they now own it. In addition, the park was awarded a \$250,000 grant from the Lily Endowment to construct a trail on this property. When the entire trail is complete, it will connect the city of Elkhart with the town of Shipshewana, which is roughly a 22 mile stretch.

The Elkhart County Parks Department is currently working on another section of this trail in the Middlebury area, which runs from SR 13 to the Elkhart/Lagrange County line. The town of Shipshewana is working from the Elkhart/Lagrange County line into downtown Shipshewana.

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 (*Wolgamood/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 for a public park (linear park) (Specifications F - #29) be approved. After a unanimous roll call vote was taken, the motion was carried.

13. The application of **Phillip R. Bocook** for a Special Use for warehousing and storing of a maximum of thirty shuttle busses in an A-1 district (Specifications F - #44) on property located on the North side of US 6, 800 ft. West of CR 25, common address of 18405 US 6 in Jackson Township 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081712*.

There were 6 neighboring property owners notified of this request.

Phillip Bocook, 18405 US 6, New Paris, was present on behalf of this request. Mr. Bocook indicated that he and his wife own Safeway Drive Away, Inc., and they run their business out of their home. He said they have an office in the house and his daughter works

there. The buses are transported from the factories to this location. Once they are at the proposed property, he will dispatch someone and have a driver come pick them up for delivery to the final destination.

Mr. Bocook explained that the aerial photo shows the driveway off of the property line. He has contacted the Elkhart County Highway Department and they have given him approval to relocate the driveway. He plans to put down asphalt in accordance with their specifications.

A lot of upkeep and maintenance has been done to the house. There are other houses in the area that are in pretty bad shape and he doesn't think he's hurting anything. A buffer wall can be put up on the east side of the brush pile if the neighbors are disturbed. He plans to demolish one of the out buildings which are made of some type of grain mill. That building is leaning and is about to fall down. The petitioner indicated he has gotten a lot of compliments from the neighbors on the upgrades he has done to the house.

Mr. Hesser asked if he has looked into buying/leasing a storage facility or yard. Mr. Bocook said when he bought the property, the realtor told him it would be fine to run his business in this location. He understands he should have checked with the county first, but he felt that he was far enough away from any other house that he wouldn't disturb anyone. He then indicated that it took him six months to find his present location. Most of the land he looked at was unaffordable because he's on a limited budget.

Mr. Hesser asked the petitioner if he lived at this location and he said yes, this is his part-time residence.

Mr. Lantz questioned if it is critical for the petitioner to live on site. Mr. Bocook said he likes to keep an eye on the property. If he leases another location, he would take the risk of somebody damaging a bus.

Mr. Lantz asked if this has caused any traffic problems because the stretch from CR 15 to CR 13 is the most dangerous stretch on US 6. The petitioner said he hasn't had any traffic problems. INDOT came out to the property and gave him approval. Mr. Bocook explained that there is a little hill that is 750 ft. from his driveway. The original driveway was closer to the hill and it was previously relocated to where it is now. Mr. Lantz indicated that traffic is his biggest concern because he knows people who have gotten into accidents there.

Mr. Lantz then suggested that the petitioner consider the land owned by Hoskin's Manufacturing for his business location, which is north of US 6 and on the west side of CR 15. There are some abandoned houses at this location that are in the process of being cleaned up, but this type of land would be ideal for Mr. Bocook's type of business.

Jeff Shields, 71915 CR 25, New Paris, was present in opposition to this request. Mr. Shields indicated he lives in the first house off of CR 125. He met the petitioner around a year ago when he got involved in the business. Mr. Shields was aware of what was going on because there were some buses there at the time during the house renovation process. The complaint that was filed was not made by Mr. Shields and he only received the letter in the mail regarding the public hearing.

Mr. Shields said he was at this location before the business was started and it is not in his best interest to see this business out of his back door. Property value is also a concern and one of his neighbors shares the same opinion.

Regarding the remonstrator's concerns, Mr. Bocook said the view from Mr. Shields property is a big brush pile with overgrown trees. He would have no problem planting some fast

growing trees to help buffer the view from his house. In the summertime, Mr. Bocook's property is hard to see because of the overgrown trees. The back of the buses can be seen from his location in the winter time.

Mr. Hesser pointed out that the aerial photo indicates the property is zoned A-1 and asked where the closest business zoning is located. Mrs. Prough said SR 15 and US 6 is to the west and it is a commercial area. Mr. Hesser then asked how far away from this property that is and Mrs. Prough said approximately two miles.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser pointed out that this business is surrounded by rural and agricultural areas. He doesn't believe that storing RV's would be an appropriate use in this area. Mrs. Wolgamood agreed and said that stretch of the road is extremely dangerous. When you add 20-30 vehicles coming and going everyday, then it could be a potential disaster.

Mr. Lantz said he thinks Mr. Bocook has a good business, but it's in the wrong location.

Mrs. Wolgamood then asked the Board how long they should allow him to remove the RV's from the property and Mr. Homan suggested around 90 days or longer. Mr. Kolbus then indicated the staff would be comfortable with any time range from three to six months. Mr. Miller said he would be in favor of the longer time period due to the economic climate.

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 with the following findings (as amended by the Board):

1. Will not be consistent with the spirit, purpose and intent of the Zoning Ordinance. Uses of this nature and intensity should be located in a B-3 or M-1 zoning district.
2. The location of 20 to 30 commercial vehicles will cause substantial and permanent injury to the appropriate use of the neighboring properties in a residential/agricultural zone in terms of the intense commercial use and aesthetics of the bus parking not being in keeping with either a residential or an agricultural zone.
3. Will not substantially serve the public convenience and welfare by establishing a non-residential use in an established residential/agricultural area.

Based upon these Findings, this request for a Special Use for warehousing and storing of a maximum of thirty shuttle busses in an A-1 district (Specifications F - #44) be denied with termination of the business use on this property within six (6) months. A roll call vote was taken and the motion was carried unanimously.

14. The application of **Brian Wogoman (buyer) and Mike Wogoman (seller)** for a Special Use for a home workshop/business for fire truck sales and service (Specifications F - #45), for a 3 to 1 depth to width ratio Variance and for a 2 ft. lot width Variance to allow for the construction of a residence on property located on the South side of CR 44, 4,230 ft. West of CR 37 in Benton 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081736*.

There were 7 neighboring property owners notified of this request.

Brian Wogoman, 210 Brooke Lane, Millersburg, was present on behalf of this request. Mr. Wogoman indicated he is the buyer of the proposed property.

Mrs. Wolgamood said she is somewhat confused about this request and asked that Mr. Wogoman explain exactly what he wants to do.

The petitioner said he and his wife are planning to build a residence on the proposed property. The property shown in the aerial photo is currently owned by his father, but he will be buying a portion of the property to build the house on. The building that is farthest east is where the business is located. Once the property is split, that building would transfer from his father's property to his own.

Mrs. Wolgamood asked if his father, Mike Wogoman, originally had the home workshop business. Mr. Wogoman said he and his father own that together and he was approved for the Special Use last year.

Mr. Kolbus asked if he owned the entire tract at that time and the petitioner said yes.

Mrs. Wolgamood asked if the aerial photo shows the current configuration of his father's tract and Mr. Wogoman said yes. He pointed out that his father's property extends further east and west than what is shown in the aerial photo.

Mrs. Wolgamood said there is a statement in the staff report that says "Additional land has been added to the parcel to make the present configuration." If the aerial shows what was granted one year ago, then she asked what has been added.

Mrs. Prough said she doesn't believe there was any additional property added. The petitioner's father owned the one tract and now he's splitting a portion of it off for his son. Mrs. Prough then explained the site plan and the configuration of the property to the Board.

Mrs. Wolgamood said there was originally 257 ft. of road frontage, but now the petitioner's father will own 89 ft. and the son will own 67 ft. She said that doesn't add up to 257 ft., so apparently there is another piece of property to the west. Mr. Wogoman then verified that he has more property to the west that is not part of the Special Use.

Mr. Kolbus said they are shrinking down the area of the original permit and changing the owner.

Mr. Homan asked if there will be two driveways and Mr. Wogoman said they intend to share a driveway.

If this request is granted, Mr. Kolbus said they should vacate the original Special Use because they don't want it granted on the original property.

Mr. Wogoman said the business will continue to operate as it does now in the pole barn on the property. He is intending to build a residence on that property for his wife and himself, which will be separate from the original parcel that is owned by his father only. There is a 30 ft. section on the eastern edge of this property that would be ideal for a driveway location. The petitioner said he would use that as a driveway if it were allowed.

Mr. Homan said he doesn't have a problem with the business being there, but he's concerned about the future of the property when it's not family owned.

In the future, Mrs. Wolgamood said they would need to have a driveway on the west or east side. She said there needs to be adequate room on the road to add a driveway in the future.

There were no remonstrators present.

The public hearing was closed at this time.

The site plan indicates that Mike Wogoman would only have 89 ft. of road frontage, but an agricultural zone requires 100 ft. She asked if they are required to have another three to one depth to width ratio Variance.

Mrs. Prough then indicated that Mr. Piehl read the legal and the petitioner's father does own additional property to the west. The petitioner would not need another three to one Variance.

Mr. Homan said as long as the Elkhart County Highway Department can grant a curb cut to put a driveway in, then everything should be alright in the future when these properties aren't family owned. Mr. Miller suggested having the second curb cut as one of the conditions if the petition were approved.

Mr. Kolbus indicated the staff doesn't know if the Elkhart County Highway Department would grant the second curb cut because they are in the process of changing their standards.

Before the building permit is issued, the staff clarified that the petitioner must have their septic permit and driveway permit.

Mrs. Wolgamood asked the Board if an indefinite approval would be an issue and they said no.

Mr. Kolbus asked that the second part of condition #2 be changed to read, "If a complaint relative to any of the five conditions is verified by Code Enforcement, then it should come back to the Board."

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Lantz*) 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 fire truck sales and service (Specifications F - #45), for a 3 to 1 depth to width ratio Variance and for a 2 ft. lot width Variance to allow for the construction of a residence be approved with the following conditions imposed:

1. Conditions 1 through 5 of the original Special Use to remain in affect.
2. Special Use approved for an indefinite period of time. If a complaint relative to any of the five conditions is verified by Code Enforcement, then the Special Use will be returned to the Board of Zoning Appeals at a public hearing for reconsideration.
3. All required permits to be obtained.
4. The original Special Use for Mike Wogoman (#20071538) to be vacated.

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

15. The application of **Victor & Valerie DePompeo (buyers) and Cindy L. Berry & Gerald A. Alexander (sellers)** for an Appeal to allow for the construction of a residence on property served by an access easement on property located on the 1,800 ft. North of SR 120, 1,700 ft. East of CR 35 in York 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081735*.

There were 6 neighboring property owners notified of this request.

Victor DePompeo, 13179 SR 120, Middlebury, was present on behalf of this request. Mr. DePompeo indicated there are presently four users on the lane, not five, which was indicated

in the Staff Report. If this request is granted and he sells his remaining property, then there would be five users.

The petitioner explained he owns 22 acres in this area and he would like to survey off two acres off the southern edge of his property. He would also like to buy two acres from his neighbors, the Alexanders. This would allow him to have four acres total and it would be north of the gas line easement. Once he sells his current property, then there would be five users on the lane.

Mrs. Wolgamood asked if this is a recorded easement and Mr. DePompeo said yes. She then asked if he submitted that for the file when the petition was applied for and he said yes. Mrs. Wolgamood asked if this is a recorded easement and Mr. DePompeo said yes. The petitioner said it is a 60 ft. easement, which runs on the Alexander's property. He pointed out that the Alexander's were also present in the audience for today's hearing.

Mr. Homan said the staff report asks for a copy of a maintenance agreement and asked if that is enforced today. Mr. DePompeo then submitted a copy of the maintenance agreement for the file *[attached to file as Petitioner Exhibit #1]*.

Loren Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioners. Mr. Sloat said the deeds were pulled for all of the properties and there are easements on each of them. The easements are either granted with the property or subject to the property. Mr. Sloat said he has written an agreement to abate all of those easements and create a new one. He then pointed out a neighboring property owner's location on the aerial photo and explained that his property is subject to the easement, but he doesn't use it to access the highway. That neighbor doesn't want to be involved in the costs or signing the document as it's written. Mr. Sloat indicated the document will be rewritten to assure that particular neighbor doesn't have to pay any costs. He indicated the maintenance agreement that was submitted today is not the final document. The new agreement will address the maintenance only.

Mrs. Wolgamood asked when he anticipates that being accomplished and Mr. Sloat said probably within the next ten days.

Valerie DePompeo, 13179 SR 120, Middlebury, was also present on behalf of this request. Mrs. DePompeo said they need to sell off some land and simplify their lives. Instead of buying something else in Elkhart County, they would like to do this. They are really familiar with the neighbors in the area and they love it.

Mr. Hesser asked what he owns and he pointed it out on the aerial photo.

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/Lantz*) 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 residence on property served by an access easement be approved with the revised maintenance agreement to be submitted to the staff within thirty (30) days. A unanimous roll call vote was taken and the motion was carried.

16. 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 in 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081295*.

There were 8 neighboring property owners notified of this request.

Mr. Sloat submitted a packet of information including pictures of the property and a list of conditions *[attached to file as Petitioner Exhibit #1]*.

Loren Sloat, 102 Heritage Parkway, Nappanee, was present representing Mr. Mullet on behalf of this request. Mr. Sloat said he has been working with Mr. Harrell on the tabled matters and most of them have been worked out. One of the issues was that when the petitioner bought the property in 2005, it was a total of five acres with the two parcels and the house located on the north end was present when Mr. Mullet owned the property. The two parcels have been combined at the Auditor's Office. When the permit was pulled for the building on the northern parcel, it was actually pulled for the parcel to the south.

The shop on the property currently has tools and equipment stored in it. He would like to build an addition onto the end of the building to allow him more space to move around. The original application indicated that the building would be 32 x 60, but they have downsized to a 32 x 48. Due to the change in the size of the building, Mr. Mullet doesn't need as much of a Developmental Variance as was originally requested.

Mr. Sloat said they are also requesting Special Use for the home workshop/business, which is now taking place there. Mr. Mullet currently has eight children and he would like them to be involved in this business also. He doesn't intend to have any other employees apart from family. If the petitioner were allowed the addition onto the building, then it would give him room for the expansion and he would also have a place to store his raw material. The petitioner does have a router for his metal and steel work.

Mr. Sloat said he expressed to Mr. Mullet that they should also provide access from the road and they are working on that with the Highway Department. They have designated a location to bring in a truck and have it pull in on the south side of the building. The truck would then be able to back up and exit the property. That access would be implemented upon approval of the project.

Another issue the staff had was regarding the sign on the property. Mr. Sloat indicated the sign has been removed and would be replaced with a sign that is in compliance with the Elkhart County Ordinance.

Mr. Sloat said there is a list of conditions in the packet that was submitted to the Board.

At the previous public hearing, there was a remonstrator who had a concern about noise. Mr. Sloat said they spoke after the meeting and the gentleman indicated he likes to sit outside to read and listen to the birds. Mr. Sloat said there will be no noise because it is all inside the shop and the sound won't carry through the dense woods.

Mrs. Wolgamood said #1 and #2 indicate that parcel 004 and 005 have been combined. She asked if a new legal has been recorded for that property and Mr. Sloat said they did it using one of the forms from the Auditor's Office. He indicated they have been assigned a new parcel number, but a new legal hasn't been done.

Mr. Sloat then submitted a copy of the Tax Combination Form from the Auditor's Office showing the request to have parcels 20-10-23-200-004 and 005 combined [attached to file as *Petitioner Exhibit #2*].

Mrs. Wolgamood asked if final inspections had been done on building #4. Mr. Sloat said he spoke to Mr. Harrell about that and it was determined that everything was going to be alright. He said Nipsco hooked up the electrical and that generally isn't done unless the inspection has been done.

Mr. Homan then indicated that #2 of the staff report says the existing building permit was issued for a 26 x 32 partial agricultural building. The building was actually 32 x 40 and he asked if that permit was issued to Mr. Mullet or a previous owner. Mr. Sloat said that was issued to Mr. Mullet.

Mrs. Prough said there was a permit issued in 2005 for a 32 x 26 accessory/agricultural building. The site plan represents that he built a larger building, so that is the permit Mr. Sloat is referring to.

Mr. Homan said he wonders about intensity as they add more buildings because the intensity, activity, and visual impact increases. Mr. Sloat said that is why he suggested to Mr. Mullet that they downsize the building because it was too big to begin with.

Mr. Homan asked about the truck traffic and Mr. Sloat said it will be minimal. The area for turn around is tight even with a car or a pick-up truck.

Mr. Hesser suggested changing the wording on #9. He would prefer that it say, "The Special Use be limited to the owner/occupant of the residence." Mr. Kolbus indicated no names should be mentioned.

There were no remonstrators present.

Mrs. Wolgamood suggested adding a #12 stating, "All state and local permits and inspections must be obtained."

Mr. Hesser asked the staff for a response on the proposed addition. Mrs. Prough said the staff feels the conditions are acceptable.

Mrs. Wolgamood asked if #2 should have a three year renewal by staff or by the Board of Zoning Appeals. She indicated there was no previous Special Use on the property and Mrs. Prough said that is correct.

Mr. Homan asked if the business has been in operation since 2005 and Mr. Sloat said yes, it has been growing since that time.

Mrs. Wolgamood said the issue she has is with the Developmental Variance. Part of the problem has been recognized by the petitioner downsizing the building, but he is still doubling the size of the current building that never had a Special Use permit to begin with.

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/Lantz*) that 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 in the primary structure (2,310), a difference of 1,754 sq. ft., be approved with the conditions submitted by the petitioner (See *Petitioner Exhibit #1*) imposed as follows:

1. No outside storage of anything related to the business.

2. The duration of the Special Use shall be for three (3) years with renewal before the Board of Zoning Appeals.
3. Exterior lighting shall be restricted to security with dusk-to-dawn lighting.
4. No exterior loud speakers allowed on the premises.
5. The Special Use shall be confined to the area of the shop building identified on the site plan.
6. One (1) sign, four (4) square feet per side, and unlighted.
7. No retail sales.
8. The number of employees limited to two (2) who are not residents of the property.
9. The owner of the business be the owner/occupant of the residence.
10. The addition to the existing structure to be limited to 32 x 48 ft. as illustrated by the petitioner and constructed in compliance with state and county building codes.
11. No further expansion of the building without approval from the Board of Zoning Appeals.
12. All state and local inspections and permits to be completed and obtained.

Mr. Hesser then asked if the neighboring properties were re-notified and the staff clarified that they were notified for the April meeting, but not for today's meeting.

Mr. Homan asked what the Board's options are. Mr. Kolbus said it is up to the Board because it's not a legal requirement. Since the public hearing was held in April, anybody who was here then would have known it was tabled until May. Mr. Hesser said the neighboring property owners who were here at the April meeting would have been expecting another notice in the mail.

Mr. Homan said he thinks it would be appropriate to hold this off for another month and re-notify the neighboring property owners. Mrs. Wolgamood agreed.

A motion was then made and seconded (*Homan/Hesser*) to withdraw the previous motion. After a unanimous roll call vote, the motion was carried.

A motion was made and seconded (*Homan/Lantz*) that 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 in the primary structure (2,310), a difference of 1,754 sq. ft., be tabled until the June 19, 2008, Board of Zoning Appeals meeting with proper notification of adjacent property owners and a completed Staff Recommendation. The motion was then carried after a unanimous roll call vote.

Mrs. Wolgamood suggested allowing the neighboring property owners to come in and listen to the recording of the proceeding or read the minutes so they will be well informed of what happened today.

Mr. Homan indicated the public hearing is closed, so it may need to be re-opened at the next meeting.

1. The application of *Don Miller* for a renewal of an existing Use Variance for light manufacturing of lighted advertising signs on property located on the Southwest corner of CR 12 and Willow Street, being Lot 7 and part of Lot 8 in Locust Ridge Estates, common address of 13324-7 CR 12 in Middlebury Township, zoned A-1, came on to be heard.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081342*.

There were 11 neighboring property owners notified of this request.

Mr. Kolbus indicated the petition was tabled without re-notification and no one was present at the last public hearing regarding this request.

Present representing Don Miller was Attorney Michael Metz, 216 W. High Street, Elkhart. Mr. Metz explained this is a renewal for an existing Use Variance for light manufacturing of illuminated advertising signs. Mr. Miller works with his step daughter and they have one significant account. He and his step daughter assemble the signs themselves and there have not been any problems. Mr. Metz assured the Board that there is no environmental waste to speak of. In the past, nothing has harmed any of the neighbor's property.

Mr. Miller asked if the petitioner lives on the property and Mr. Metz said no. Mr. Miller asked who occupies the home and Mr. Metz was not sure. The petitioner commutes back and forth from Michigan City because he re-married and his wife has a business in Michigan City.

Mr. Homan asked if the business process has changed in the past five years and Mr. Metz said no, it's still the same.

Mrs. Wolgamood asked if Mr. Miller has looked at and is in agreement with the six conditions listed in the staff report. Mr. Metz said the petitioner has read them and is in agreement.

Mr. Kolbus suggested the last condition be modified to read, "If a complaint relative to any of the five conditions is verified by Code Enforcement, it will be returned to the Board of Zoning Appeals for reconsideration."

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser indicated there haven't been any complaints or problems since this business was started.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Lantz*) 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 renewal of an existing Use Variance for light manufacturing of lighted advertising signs be approved with the following conditions imposed:

1. No expansion of the 32 x 48 ft. building in which Mr. Miller fabricates his temporary signs.
2. One (1) double-faced unlighted sign no larger than four (4) sq. ft. per side.
3. No more than two (2) employees who live outside of the residence on site.
4. No outside storage of raw or finished products permitted.
5. All sounds, smells and dust must be contained on site.
6. Approved for an indefinite period of time. If a complaint relative to any of the other conditions is verified by Code Enforcement, then the Use Variance will be reintroduced to the Board of Zoning Appeals for reconsideration.
7. The Use Variance is to be limited to the owner of the property.

The motion was then carried with a unanimous roll call vote.

18. The application of *Charles Smith* for an 18 ft. Variance to allow for the construction of a detached garage 32 ft. from centerline of the right-of-way of Lake Drive (Ordinance requires 50 ft.), and a 14 ft. Variance to allow for said detached garage 36 ft. from centerline of the right-of-way of Maplewood Drive (Ordinance requires 50 ft.) on property located on the Southwest corner of Lake Drive and Maplewood Drive, 900 ft. East of CR 109, common address of 25738 Lake Drive in Osolo Township, zoned R-2, 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. Slater presented the Staff Report/Staff Analysis, which is attached for review as *Case #20081706*.

There were 5 neighboring property owners notified of this request.

David Jarrett, 22196 Lone Oak Drive, Goshen, was present on behalf of this request. Mr. Jarrett said he doesn't believe this request will be a safety issue as indicated in the findings. He explained that there are other properties in this area that are closer to the center line of the road than this garage would be.

The garage will be angled on the property with the width being 36 ft. and the depth being 24 ft. The petitioner will access the garage from his existing driveway. There won't be a need for a second access since the garage will sit at an angle.

Mr. Jarrett explained that pictures one and two were taken from Lake Drive, which shows the corner stakes of the garage.

Picture three is taken from Maplewood Drive looking to the north. The tree along Lake Drive and the landscaping on the corner will remain. He said the landscaping will stay intact.

Mr. Jarrett said Maplewood Drive is a dead end street with only three houses.

The fourth picture is a view of 25761 Lake Drive, which has a setback of 36 ft. from the garage to the center line of the road.

Picture number five shows the property at 25771 Lake Drive, which is immediately west of the property in photo number four. This property has a setback of 36 ft. to the center line of the road. He also pointed out that this location has vehicles parked out front that are almost parked in the road.

The property shown in picture number six has a setback of only 25 ft. to the center line of the road. Lastly, picture seven shows properties further on down the road to the west with setbacks of only 25 ft. to the center line of the road. There are properties in the immediate area as well as to the west that show a setback of an equal distance or less than what Mr. Smith is asking for. He feels that the trees on the corner cause more of a safety problem than what the proposed garage would.

Mr. Miller asked if there are any other options on site that would work just as equally, but Mr. Jarrett said no due to the locations of the existing structures. They felt this location would be the only feasible place for the garage.

Mr. Miller then asked if the 36 ft. length of the garage was determined by the need and Mr. Jarrett said yes.

Lorell Nihart, 25799 Lake Drive and 25807 Lake Drive, Elkhart, was present on behalf of this request. Mr. Nihart said some of the surrounding buildings shown in the photos that Mr. Jarrett pointed out that had violated the setbacks were already in place before the Elkhart County Zoning Ordinance had been created. He believes the reason for the Elkhart County Zoning

Ordinance is to have a more orderly manner in to which things are developed. He pointed out some surrounding land that is currently in development.

Mr. Nihart explained he doesn't think a 36 x 24 ft. garage would look right in this location. He understands why the petitioner would want it because of his boat, truck, and cars. It was suggested by Mr. Nihart that he put the garage to the rear of the property and take down some of the vinyl fencing. Setting the garage at an angle as Mr. Smith is requesting would take away from the neighborhood and what it would look like. Mr. Nihart said the petitioner has lived at this location for less than a year. He thinks there are other alternatives for this garage and he agrees with the staff's recommendation.

Mr. Jarrett then addressed the remonstrator's concerns stating that the petitioner wants the garage so his vehicles don't have to sit outside. The shingles and siding on the garage will match the house, so it won't look like a pole barn.

Mr. Jarrett said it would be very difficult for Mr. Nihart to see the garage from his properties. He isn't sure how the viewing of that will be a problem apart from when he comes and goes to work.

The letters that were previously submitted to the Hearing Officer were from a neighbor directly north across the street and also two properties across the street. He indicated they have no objections to the garage.

Mr. Hesser asked how big the current garage is which is attached to the house and Mr. Jarrett said it is approximately 24 x 24.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller said he believes there are better options on the property than what has been presented. Mr. Hesser agreed and said he's also concerned that it's located on the corner of an intersection.

Mrs. Wolgamood said when you start forgiving setbacks at intersections, then there is the potential for the intersections to be encroached upon. She wouldn't be opposed to them adding onto the existing garage.

Mrs. Wolgamood said they may have already encroached because the pool looks like it may be a little too close to the right of way.

Mr. Lantz said he needs to look at other options because having the garage set at an angle would create a brief problem as you approach the intersection.

Mr. Miller pointed out that this is in a lake community and everything is already close to the street. At some of the locations, you can't even back out of the driveway and this would only add to the problem. There are better options for the location of the garage.

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 an 18 ft. Variance to allow for the construction of a detached garage 32 ft. from centerline of the right-of-way of Lake Drive (Ordinance requires 50 ft.), and a 14 ft. Variance to allow for said detached garage 36 ft. from centerline of the right-of-way of Maplewood Drive (Ordinance requires 50 ft.) be denied. A roll call vote was taken and the motion was carried unanimously.

Mr. Kolbus then said he is not to be restricted by the six month time limit if there is a substantial change.

20. Mr. Watkins explained to the Board that the Plan Commission has been working on a Subdivision Control Ordinance and they are getting reasonable close to having a revised copy. In order to make that Ordinance effective, the Zoning Ordinance also needs to be looked at. He was asked to find out what some of the shortcomings are of the Zoning Ordinance. Mr. Watkins has sent a letter to the Commissioners requesting funding to re-draft the Zoning Ordinance.

Mrs. Wolgamood asked if he has heard about any of the possibilities and Mr. Watkins said no.

Something that the staff has discussed is having a staff meeting with the Board of Zoning Appeals. Mr. Watkins decided not to have the meeting this month because of the lengthy agenda. The Board will be notified when they decide to have the meeting. Mr. Watkins would like to discuss things the staff could do better, improving staff recommendations, etc.

21. Mr. Watkins then discussed the drainage study that was done on the diversion ditch by MS4. There are several entities involved in the study, including the school, which are looking at the entire drainage basin and making some recommendations as to what can be done. He's not sure what the deadline is, but the project is being worked on.

22. The Auditor's Office and the Assessor's Office are asking for updated aerial photos. The current aerial photos are only two to three years old, but they are already obsolete. The county will be getting new aerial photos one or two years earlier, so the Board will have better reference material to look at. It is a fairly expensive project, but there is money from the GIS fund, Assessor's, and the Auditor's Office to make that happen. Tricia Gleason, GIS Coordinator, is working on that and there will be a meeting in regards to the project this month.

23. Finally, Mr. Watkins explained that the building inspectors are following up with the old permits that never had final inspections. There have been several permits for agricultural buildings that now have businesses and never got any inspections after the foundation inspection. He told the Board that they may be hearing about more of those. Mr. Watkins asked the Board at what point should they be told to tear the building down.

Mr. Homan said he has never seen the Board act in a manner to shut someone down or have them tear down their building. He's not saying it shouldn't happen, but he does think they need some guidance on that.

Mr. Miller indicated he would struggle having someone tear down an existing building that someone is using to make a livelihood with.

Mr. Nihart came before the Board to comment on having the county close someone up or have them tear down a building they didn't get final inspections on. He explained he knew someone who had a building burn down and then the county never let him build it back up. Mr. Nihart expressed that he feels the Board should be a little more consistent and respect what people are doing.

Another thing Mr. Nihart asked the Board to consider is to keep the three acre rule and not make it really difficult for people to work.

21. The meeting was adjourned at 11:56 A.M.

Respectfully submitted.

Kate A. Barghahn, Recording Secretary

Randy Hesser, Chairman

Tom Lantz, Secretary