

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21ST DAY OF APRIL 2011 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: Meg Wolgamood, Tom Lantz, Doug Miller and Robert Homan. Staff members present were: Robert Watkins, Plan Director; Ann Prough, Zoning Administrator; Robert Nemeth, Planner; Kathy Wilson, Office Administrator, and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Wolgamood/Lantz*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of March be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Lantz/Wolgamood*) that the legal advertisements, having been published on the 9th day of April 2011 in the Goshen News and on the 9th day of April 2011 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 (*Wolgamood/Miller*) 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. At this time, Mrs. Prough asked the Board to amend the agenda to hear the tabled item for Allen J. & Judith Kauffman first. She explained that Mr. Miller needs to leave at 9:00 a.m. and that petition needs a full board to break the tie vote. She also noted the public hearing was closed.

Mr. Kolbus said Rules of Procedure allow the Board to amend the agenda by a motion and a vote of the majority members present. The petitioner's representative for this petition had requested that the public hearing be re-opened to add information, but he said the Board never made a decision on whether or not to do that.

A motion was then made and seconded (*Wolgamood/Lantz*) that the agenda be amended to allow for the Allen J. & Judith Kauffman tabled item to be heard first. A unanimous roll call vote was taken and the motion was carried.

8. The application of *Allen J. & Judith Kauffman* for a Use Variance to allow for a second residence on a single zoning lot and a Developmental Variance to allow the total square footage of accessory structures to exceed the total square footage in the primary structure on property

located on the West side of CR 116, 1,600 ft. South of CR 16, common address of 56815 CR 116 in Middlebury 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. Hesser explained two months ago, the Board failed to reach a decision due to a tie vote.

Mrs. Wolgamood indicated at the last meeting she had read and listened to the hearing. There was a request by the petitioner to re-open the public hearing, but she doesn't feel there is a need to do that.

Mr. Doriot said he has no problem with the public hearing not being re-opened.

Mrs. Wolgamood said under normal circumstances, she would vote in opposition to these types of requests. The way this property is laid out and the proposed location of the second residence would allow it to be divided very easily. In this particular instance, she doesn't see any reason for denial of the request.

Mr. Hesser also noted that a representation was previously made that the petitioner had no issues entering into an agreement that the property wouldn't be transferred and no one else would live in the house. He feels that factor does a lot to address the concerns of the Board, but he personally doesn't feel that it fits the required criteria of a Use Variance

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Miller*) that this request for a Use Variance to allow for a second residence on a single zoning lot and a Developmental Variance to allow the total square footage of accessory structures to exceed the total square footage in the primary structure be approved based on the following findings:

1. The request will not be injurious to the public health, safety, morals and general welfare of the community.
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
3. A need for the Variance does arise from a condition that is peculiar to the property involved.
4. Strict enforcement of the terms of the Zoning Ordinance does constitute an unnecessary hardship if applied to the property.
5. The Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

The motion was carried with the following roll call vote result: Homan – no; Wolgamood – yes; Lantz – yes; Miller – yes; and Hesser – no.

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

9. The application of **Terry & Suzanne Hart** for a Special Use for a home workshop/business to spin raw alpaca fiber into finished yarn (Specifications F-#45) on property located on the West side of CR 37, 1 mile North of CR 2, common address of 50509 CR 37 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #50509CR37-110317-1*.

There were 5 neighboring property owners notified of this request.

Terry and Suzanne Hart, 50509 CR 37, Middlebury, were present on behalf of this request. Mrs. Hart said they currently raise alpacas which they show once a year. The fiber on the alpacas is meant to be used as a textile, so they would like to spin raw fiber into yarn. Other alpaca farmers would bring their raw material to Mrs. Hart and then she would spin it into yarn.

Mrs. Wolgamood asked if the customers would bring the animal to her and Mrs. Hart indicated no, they would bring the raw material only.

When Mrs. Wolgamood questioned employees, the petitioner noted there would be no outside employees.

The estimated number of daily customers was questioned by the Board and Mrs. Hart said most of the material would be mailed to her, so there won't hardly be any customers coming to the site.

Mr. Hesser asked if this would be year round or seasonal and the petitioner said year round.

Mrs. Wolgamood asked if they will be operating out of an existing building and Mrs. Hart said yes. The only remodeling they will be doing inside the structure is dividing off a section for the mill.

Mr. Homan asked how big the deliveries are and whether or not the trucks have to back out onto the county road. Mrs. Hart said the delivery trucks usually back up onto the driveway from the county road.

Mrs. Wolgamood indicated the Board normally does not permit that. Mrs. Hart noted there is an area where the delivery trucks could turn around on site, but the drivers don't typically use it. Mrs. Wolgamood suggested requesting that the delivery drivers use the turn around.

Mr. Homan asked how frequently they will receive a shipment of material. The petitioner said it depends on the individual farms and when they are ready to have it processed.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood said this is almost considered a home occupation.

Mr. Homan said the Board is always concerned about delivery trucks backing in off the county road, but he feels it wouldn't be an issue in this case due to the infrequency of deliveries.

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 the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business to spin raw alpaca fiber into finished yarn (Specifications F-#45) be approved for the owner/occupant of the residence on site, in accordance with the site plan submitted and as represented in the petitioners' application. After a unanimous roll call vote was taken, the motion was carried.

10. The application of **Merle D. Helmuth** for a Special Use for a home workshop/business to allow for a tool sharpening business (Specifications F-#45), and for a Special Use to allow for an agricultural use (keeping of one horse on property containing three acres or less) (Specifications F-#1) on property located on the West side of CR 11, 700 ft. South of CR 54, common address of 72125 CR 11 in Union 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #72125CR11-110315-1*.

There were 4 neighboring property owners notified of this request.

Mrs. Wolgamood questioned #10 of the Special Use questionnaire as it indicates that the petitioner intends to have retail sales of lawn and garden supplies. She noted the staff didn't make mention of that at all.

Mrs. Prough said the staff did review the petition and they did look at item #10. They felt that lawn and garden supplies could be an accessory use to the tool sharpening business if the petitioner is selling things such as lawnmower blades, sheers, etc. Mr. Helmuth has represented that the retail sales would be in a 10 ft. x 15 ft. area in the existing accessory structure. If it is related to the tool sharpening business, the staff has no issues with the proposed retail sales.

Merle Helmuth, 1531 Beech Road, Nappanee, was present on behalf of this request. Mr. Helmuth said he would like to add onto an existing building for a horse and he would also like to have the sharpening business in a portion of the building.

Mrs. Wolgamood asked him to explain the retail sales of lawn and garden supplies. Mr. Helmuth said he will have saw chains for sale in a small area. He may also have blades for sale in the future, but not at this time.

When Mrs. Wolgamood asked if he currently has the tool sharpening business elsewhere, the petitioner said yes. He doesn't currently live at this site but he will be moving by fall time.

The hours of operation were questioned by the Board and the petitioner said he will be working evenings and weekends because he has a regular full-time job as well. Mr. Helmuth estimated that his hours of operation would be approximately 4:00 p.m. to 9:00 p.m., Monday through Saturday.

Mrs. Wolgamood asked if it is correct that the east half of the building would be used for the tool sharpening business and Mr. Helmuth said yes. The west half will be used for personal storage and the addition will be used for a horse.

Mr. Homan asked who currently owns the property and the petitioner said he does, but he doesn't live there yet. He will be living there in the future.

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/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 to allow for a tool sharpening business (Specifications F-#45), and for a Special Use to allow for an agricultural use (keeping of one horse on property containing three acres or less) (Specifications F-#1) be approved with the following statement being removed from finding #1: "Home workshop/business and agricultural uses on less than three acres permitted by Special Use in agricultural zoning districts." The following conditions were imposed:

1. Approved for the owner/occupant of the residence on site and as represented in the petitioner's application.
2. Lawn and garden sales are permitted as per petitioner's indication.
3. Hours of operation are 4:00 p.m. to 8:00 p.m., Monday through Saturday.

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

11. The application of **Lourdes Bowers** for a Special Use for a home workshop/business for permanent makeup application (Specifications F-#46) on property located on the West side of Southfield Avenue, 175 ft. South of Farmington Avenue, being Lots 31 & 97 of Lincoln Heights Subdivision, common address of 59623 Southfield Avenue in Concord Township, zoned R-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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #59623SouthfieldAvenue-110318-1*. A petition in opposition to this request was submitted to the Board by Mrs. Prough at this time *[attached to file as Staff Exhibit #2]*. Mrs. Prough noted she also gave a copy of the petition to the petitioner.

There were 29 neighboring property owners notified of this request.

Lourdes Bowers, 59623 Southfield Avenue, Elkhart, was present on behalf of this request. Mrs. Bowers explained she is requesting to apply permanent makeup. She said this would only be makeup and not body tattoos. She would be using needles to apply the makeup because it is semi-permanent. Mrs. Bowers explained this process is usually done in doctors' offices and beauty salons. She isn't expecting many customers, so that is why she would like to operate the business from her home. It is not feasible for her to rent a commercial place when she only has two to four customers a month.

She understands that some of her neighbors are in opposition of this request but she indicated this would be for women only and bad people won't be coming into the neighborhood. She said this type of makeup application is very popular today. Mrs. Bowers has been trained to do this type of work and she would be sure to obtain the property insurance she needed for this type of business.

When Mrs. Wolgamood questioned how long she has been doing this, the petitioner said she was trained last December. This is a new profession for her, but she has been thoroughly trained.

The Board asked if she is currently doing this elsewhere and Mrs. Bowers said yes, she currently works out of a beauty salon. It is not working for her because she doesn't have a lot of clients and the hours are limited as to when she can use the salon. She would like to have a place of her own where she can work more comfortably.

Mr. Hesser asked if there are other businesses in this subdivision and the petitioner said not that she knows of. There was previously some type of printing business and also a daycare in the area.

John Uryga, 59636 Southfield Avenue, Elkhart, was present in favor of this request. Mr. Uryga indicated he lives directly across the street from the petitioner. He explained there were a couple other businesses in the area previously and there is also a gentleman who parks his semi on his property. He noted there is a business zoning district not far from this block.

Mr. Uryga explained the petitioner was previously laid off and she would like to contribute to the community. He feels the neighbors are afraid that lots of businesses will be allowed into the neighborhood if this is approved, but he wondered if the Board could place a restriction on that.

Jerry Adkins, 23342 Martin Avenue, Elkhart, was present in opposition to this request. Mr. Adkins explained he lives half a block south of the property in question. He then read a letter from the neighbors of the Lincoln Heights Subdivision, which is attached to the file as Staff Exhibit #2. Mr. Adkins said he has lived in this neighborhood since 1987 and it has always

been a very quiet neighborhood. He is concerned for the safety of the neighborhood because the streets are very narrow.

Cynthia Miller, 4406 Tacoma Avenue, Fort Wayne, was present representing her father who lives at 23372 Martin Avenue, Elkhart. Mrs. Miller indicated she owns and has previously lived at the property, but she has moved to Fort Wayne now. She comes back to Elkhart on a weekly basis to care for her father and the property. This property has been in their family for several years and they are proud of their investment in the community.

Mrs. Miller said they are friendly with the neighbors and network with them often. They are adamantly against the allowance of this type of business in their quiet neighborhood. She explained she is concerned and afraid of the disruption that this may cause. By allowing any type of tattoo parlor to operate in the neighborhood will bring additional traffic, added noise, trash, pollution and stress to the roads and peaceful environment. This would put the infrastructure of the community at great risk. She is concerned about vandalism and upkeep of the property. She would like to maintain the strong community environment. Overall, Mrs. Miller said she is adamantly against the establishment of this type of business in the neighborhood.

In rebuttal, Mrs. Bowers said the traffic would be very minimal. She understands the neighbors' concerns, but she feels they are exaggerated. She has lived in the neighborhood for 17 years and has kept her property looking nice. Mrs. Bowers doesn't feel that the neighbors understand what permanent makeup application entails. This would be for women only and would not bring bad people into the neighborhood.

Mr. Homan asked how many clients she has and the petitioner said four. The petitioner noted that permanent makeup application is new in the area is not very popular. She has had four clients in the past month.

Mr. Hesser asked if the permanent makeup application requires a follow-up. Mrs. Bowers said it normally lasts three to five years, but it depends on what the client wants and how they want it done.

The public hearing was closed at this time.

Mr. Hesser feels it is hard to know how to categorize this type of business. He said it sounds a lot more like a beauty shop than a tattoo parlor, but it is somewhere in between.

Mr. Homan said this is gaining popularity and it is offered in a number of salons in the area. He does believe that this is not a tattoo parlor in a traditional sense, but the equipment used is similar. The way the Zoning Ordinance is written and the comments from the remonstrators in the neighborhood, he feels the Board is restricted by law. He indicated he agrees with the Staff's Analysis.

Mr. Lantz feels there are a lot of misconceptions about what the petitioner would like to do.

Mrs. Wolgamood feels the petitioner has done a beautiful job of explaining what she does. Personally, she would prefer to have something like this instead of a daycare with 10 to 15 kids running up and down the street. Due to the procedure, the staff has determined that this is more like a tattoo parlor.

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 the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for permanent makeup application (Specifications F-#46) be denied with no

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

12. The application of *Edwin A. & Velda M. Yoder* for a Special Use for an agricultural business for fencing (Specifications F-#56) on property located on the East side of CR 37, 2,200 ft. North of CR 10, common address of 54092 CR 37 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #54092CR37-110315-1*.

There were 9 neighboring property owners notified of this request.

Edwin Yoder, Yoder & Son Fencing, 54092 CR 37, Middlebury, was present on behalf of this request. Mr. Yoder explained the company does custom fencing, mostly for agricultural. They also do some residential and commercial fencing. He explained there are three other businesses adjoining his property. There is a Special Use for a chair business to the south; a Special Use for an excavation business is to the east and Dogwood Hills Tree Farm to the north, which is also under a Special Use.

Mrs. Wolgamood asked the petitioner where he lives and he pointed it out on the aerial photo, which is on the property in question. They had a previous Special Use granted last August on another property, but they would like to move it here. Everything is identical apart from no longer doing fiberglass work.

Mrs. Wolgamood asked if they have any outside storage and the petitioner said yes, it is between the two buildings towards the south side of the property. He plans on building a privacy fence around the lot so it doesn't become an eyesore.

When Mrs. Wolgamood asked when he plans to have the fence constructed, Mr. Yoder said sometime this summer.

The Board asked if the fencing is his full-time job and the petitioner said yes.

Mrs. Wolgamood questioned where the fence will be constructed and the petitioner pointed it out on the site plan at this time. The area that will be fenced will be approximately 150 ft. x 88 ft.

Mr. Lantz asked what type of equipment he will be storing and Mr. Yoder said a tractor loader, skid loader, post drivers, etc.

Mr. Lantz also questioned if he will be handling any vinyl, the petitioner said yes but they only install it and don't retail it. There is no showroom and they get the materials as needed.

There were no remonstrators present.

Mrs. Wolgamood asked if the turnaround provided on site would be ample for a semi and the petitioner said yes. There is a 16 ft. wide entrance way, so the semis do not need to back out onto the county road.

The public hearing was closed at this time.

Mrs. Wolgamood said she would agree with the Staff Analysis apart from finding #1. She suggested having the petitioner submit a revised site plan showing the 88 ft. x 150 ft. designated area for the keeping of materials. The petitioner has also indicated he would put a privacy fence up and she would like to have a date as to when that needs to be completed.

Mr. Homan questioned the hours of operation and Mr. Yoder said they strive to be on the job eight hours a day. Sometimes it ends up being more than eight hours. They start loading the

trucks at 6:00 a.m. and then they leave for the job site. They are usually back by 3:30 p.m., but it may be later in the spring/summer. The hours are lessened in the fall and they don't always have 8 hour days that time of the year.

Mr. Homan then suggested setting his specific hours to Monday through Friday, 6:00 a.m. to 5:00 p.m.

Mrs. Wolgamood said that as a neighboring property owner, she would like to know that they won't be showing up at 4:00 a.m. She agreed that they need to have hours of operation in place.

The petitioner said the only thing they do at the property in question is load and unload.

Mr. Yoder also indicated he is agreeable to having the fence completed by October.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/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 an agricultural business for fencing (Specifications F-#56) be approved with the following conditions imposed:

1. Approved for the owner/occupant of the residence on site.
2. Approved as represented in the petitioner's application provided the petitioners relinquish the previous Special Use granted by the Board of Zoning Appeals on August 19, 2010.
3. Hours of operation are 6:00 a.m. to 5:00 p.m., Monday through Saturday.
4. A revised site plan is to be submitted showing the storage areas and fenced area.
5. The fence is to be installed by October 1, 2011.

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

13. The application of *Middlebury Community Church, Inc. d/b/a Waypoint Community Church* for an amendment to an existing Special Use for a church to allow for the construction of a pavilion (Specifications #F-48) on property located on the North side of US 20, 750 ft. West of CR 29 and West side of CR 29, 750 ft. North of US 20, common address of 16903 US 20 in Jefferson 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #16903US 20-110321-1*.

There were 14 neighboring property owners notified of this request.

Karl Graber, Pacemaker Buildings, 101 Acorn Street, Syracuse, was present representing the petitioners. Mr. Graber explained this pavilion is part of an original use of the property, which was approved in 2007. The building project of the church has not progressed as fast as they thought in terms of what they want to do and the design. He noted they are working with Jason Kauffman from Elkhart County Soil & Water.

Mr. Hesser asked what the projection is for when the rest of the construction will be completed and Mr. Graber said by the end of next year. They have been working with two builders up to this point, but they would like to step back and think about it rather than into things.

Mrs. Wolgamood asked if this is an enclosed pavilion or an open pavilion. Mr. Graber said 12 ft. of one end will be enclosed, but the majority of it will be open.

Mrs. Wolgamood asked if there are any issues with the list of site plan information requested on the Staff Analysis. Mr. Graber said no and indicated the only thing they still need to do is get the storm water plan completed.

Mr. Homan questioned #3 of the Staff Analysis because the building seems to be much closer to CR 29. He asked what the intentions are in terms of a curb cut. Mr. Graber said the original intent from before was that the driveway access would come off of CR 29. He felt the staff's main concern was that they wanted to know that Elkhart County Highway Department would grant the access. The majority of the people who come to the site will be coming from US 20, but the staff wanted to make sure the intersection was capable of handling the traffic.

Mrs. Wolgamood said they will also be required to get a curb cut on CR 29. Mrs. Prough indicated that is correct and it was a condition of their original Special Use. She then displayed the site plan to the Board that was submitted with the original Special Use. The original site plan wasn't very detailed because the church was unsure of what direction they were going at that point. As a result of that, the Board requested a lot of things to be on a site plan that was approved prior to issuance of a building permit and construction of a church.

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 (*Lantz/Homan*) that the Board adopt the 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 to allow for the construction of a pavilion (Specifications #F-48) be approved with the following conditions re-imposed:

1. All state and local building permits must be obtained with inspections completed prior to occupancy.
2. A detailed site plan must be submitted to the staff prior to the issuance of a building permit depicting the following:
 - a. drainage
 - b. wastewater disposal
 - c. setbacks
 - d. safe vehicular and pedestrian access to the property and proper access for emergency vehicles
 - e. adequate off-street parking
 - f. refuse and service areas
 - g. all utilities necessary for this use
 - h. screening and buffering
 - i. all proposed signs and exterior lighting with an explanation of any glare, affect on traffic safety, and compatibility of signs and lighting with other properties in this zoning district.
3. Road access to be granted by the County Highway Department with an access to US 20.

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

14. The application of **Raymond Yoder** for an amendment to an existing Special Use for a craft shop to allow for food preparation and sales of bulk food and deli products (Specifications #F-45) on property located on the West side of E. County Line Road, 1,900 ft. South of CR 38,

common address of 65445 E. County Line Road 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #65445 E. County Line Road Rd-110321-1*.

There were 3 neighboring property owners notified of this request.

Present representing the petitioner was Justin Plank, 10516 N 650 E, Syracuse.

Mr. Homan questioned whether the growth or traffic will increase and Mr. Plank indicated no.

Mr. Homan also asked if there has been any conversation with the Health Department and Mrs. Prough indicated she has not spoken to them.

Mrs. Wolgamood asked if the deli would include tables and chairs and the petitioner's representative 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 (*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 an amendment to an existing Special Use for a craft shop to allow for food preparation and sales of bulk food and deli products (Specifications #F-45) be approved with Staff Analysis finding #3 being revised as follows: "Will substantially serve the public convenience and welfare by making bulk food available to the community." The following conditions were imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. Approved for the owner/occupant of the residence on site.
3. All state and local permits and inspections to be obtained.

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

15. The application of **John G. & Rachel F. Miller** for a Special Use for a saw mill (Specifications #F-37) on property located on the North side of CR 50, ½ mile East of West County Line Road, common address of 30501 CR 50 in Locke 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #30501CR 50-110321-1*.

There were 5 neighboring property owners notified of this request.

Loren Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioners who were also present in the audience. Mr. Sloat submitted a packet of information to the Board at this time *[attached to file as Staff Exhibit #2]*. He explained that the petitioners would like to supplement their income and they are requesting to have a sawmill. He displayed photos of the portable sawmill at this time. The petitioner currently has to go outside to cut logs and he would like to be able to have everything inside the building to stay out of the rain and snow.

Mr. Sloat explained there is an open field to the west of the woods. He displayed pictures of the property at this time.

The petitioner is not asking for any outside employees and his teenage son will be working for him. He will be cutting approximately eight to ten logs per week and will be working on Friday afternoons and Saturdays.

Mr. Sloat indicated that 70 percent of the logs he buys are on pallets and the other 30 percent is custom work for farmers in the area and contractors. There will also be limited dust as the logs are all green. The little sawdust that is created is collected by a local dairy farmer to be used as animal bedding. The petitioner currently has a full time job at an RV factory, but he would like to operate the sawmill part-time. This will benefit the community because people in the area need this type of product.

When Mrs. Wolgamood asked how late the petitioner works, Mr. Sloat said until about 10:00 p.m. and all work would be done inside the building.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan felt this property would be a good fit for the Special Use.

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 the Findings of the Board, and based upon these Findings, this request for a Special Use for a saw mill (Specifications #F-37) be approved with the following conditions imposed:

1. All sawing to take place inside the new building.
2. Logs and cut lumber stored in the area designated on the site plan.
3. No expansion of the operation without BZA approval.
4. No more than two (2) employees that do not live in the residence on site.
5. Residence on site to be occupied by petitioner and family.
6. No signs.
7. No retail sales.
8. Special Use confined to the area west of the woods as designated on the site plan.

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

16. The staff item regarding Timber Ridge Golf Club, LLC was presented by Mrs. Prough at this time. She explained the property is located in the North side of CR 44 and East of CR 37 in Benton Township. The Special Use was granted on the 141 acre parcel and they are now requesting to construct a 36 ft. x 56 ft. open pavilion. The golf club has submitted a letter asking that the Board consider this a minor change. Mrs. Prough indicated the pavilion would be located behind the parking area. They currently put tents up for their events, but having the pavilion would allow them to have a permanent structure.

Mr. Hesser asked if there would be any electric or plumbing and Mrs. Prough said no.

Mrs. Wolgamood felt the permanent structure would be ideal and the size is reasonable.

A motion was then made and seconded (*Hesser/Wolgamood*) to accept the construction of a pavilion as a minor change. After a unanimous roll call vote was taken, the motion was carried.

17. The staff item regarding Middlebury Church of Christ was also presented by Mrs. Prough at this time. She explained this church is located east of the Timber Ridge Golf Course on CR 44. A Special Use for a church was approved for a three acre parcel. In 1994, they had to come in to amend the Special Use because it was a modular church. In 1996, the Zoning

Administrator allowed the church to construct a small 8 ft. x 8 ft. garden shed and they were not required to get a building permit. They would now like to remove the 8 ft. x 8 ft. shed and construct a 16 ft. x 16 ft. shed.

Mrs. Wolgamood said since this is a use that was already approved and the size is reasonable, she doesn't have an issue with the request.

A motion was then made and seconded (*Wolgamood/Homan*) that this request be considered a minor change. A unanimous roll call vote was taken and the motion was carried.

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

18. There were no audience items.

19. The meeting was adjourned at 10:23 a.m.

Respectfully submitted.

Kate A. Keil, Recording Secretary

Randy Hesser, Chairman

Tom Lantz, Secretary