

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19TH DAY OF JANUARY 2012 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, and Doug Miller. Staff members present were: Ann Prough, Zoning Administrator; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Kathy Wilson, Office Manager; and James W. Kolbus, Attorney for the Board.
2. A motion was made and seconded (*Wolgamood/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 15th day of December 2011 be approved as read. The motion was carried with a unanimous roll call vote.
3. A motion was made and seconded (*Miller/Wolgamood*) that the legal advertisements, having been published on the 6th day of January 2012 in the Goshen News and on the 8th day of January 2012 in The Elkhart Truth, be approved as read. A roll call vote was taken, and with a unanimous vote, the motion was carried.
4. A motion was made and seconded (*Wolgamood/Miller*) that the Board accepts the Zoning Ordinance, Subdivision Control Ordinance and Staff Reports as evidence into the record and the motion was carried with a unanimous roll call vote.
5. There were no postponements of business items.
6. ***Election of Officers:*** After a brief discussion, Mrs. Wolgamood moved that the 2011 Officers retain their offices for 2012 as follows: Randy Hesser, Chairman; Doug Miller, Vice Chairman; and Robert Homan, Secretary. Mr. Miller seconded the motion, which then carried with a unanimous roll call vote.
7. The application of ***Hi-Tech Housing, Inc., an Illinois Corporation*** for a Special Use for warehousing and storing of cargo trailers, inventory and materials in an A-1 district (Specifications F - #44) on property located on the East side of CR 21, 1,200 ft. North of CR 8 in Washington 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*].

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 21-111219-1*.

There were 15 neighboring property owners notified of this request.

Mr. Hesser questioned what the staff meant by the movement of inventory being internal only and Mrs. Prough indicated the staff didn't want anything outside on the roads. Mr. Kanney was concerned that the petitioners would try to use the road right-of-way on CR 21 to move inventory. That was the major concern as the staff didn't want them backing in and backing out. With the site plan that the petitioners have submitted, that shouldn't be an issue.

Present on behalf of this request was Gary Mackelprang, 19319 CR 8, Bristol. Mr. Mackelprang explained they manufacture and enclose cargo trailers and they would like to have an access fence behind M-1 and going into A-1. This would allow them to move their finished goods into that area as they continue to grow. All trailers will be stored out there and they will come through the access road to come back out to the M-1 area where they ship their trailers in the parking lot. He said they will not be using CR 21 for any type of moving of trailers and it will all be internal.

Mrs. Wolgamood said the north line of the property indicates that its 1,311 feet from 21. The south line states that its 894 feet and he has indicated that there will be 600 feet of storage area on the site. She feels that the site plan is somewhat deceiving because if that distance is almost 900 feet and you cut into thirds, you're talking about two-thirds of that property being utilized for storage. She asked if that if that was correct.

Mrs. Prough noted the site plan is not to scale.

Mr. Mackelprang indicated they will never fill up the whole property with trailers. Currently, they are storing all of their trailers in the M-1 area. The A-1 is an adjacent property as they continue to grow where they can store them. He doesn't feel they will ever use more than two-thirds of that area to store trailers on.

Mrs. Wolgamood noted the site plan indicates they would only be using a third of that property, which would be approximately 300 feet instead of 600 feet. She asked if he would have objections to the Board changing that to 300 verses 600 for an approval. Mr. Mackelprang said he wouldn't have an issue with that.

Mr. Hesser clarified that the way he interpreted the petitioner's answer was that 600 feet is what they are asking for, which would be two-thirds of the property. He has the correct number, but the line on the drawing is on the wrong place.

Mr. Mackelprang said if it's a matter of re-doing the drawing, they can do that.

Mr. Hesser asked if they want to use the eastern 600 feet or the eastern 300 feet for storage.

Mrs. Wolgamood noted it says 600 feet on the site plan.

Mr. Mackelprang indicated they would like to use 600 feet, which would be two-thirds of that property.

John Bolstetter, Bravo Trailers, 19319 CR 8, Bristol, was also present on behalf of this request. He clarified that part of the area will be used for access to move trailers around.

Mrs. Wolgamood then questioned number three of the staff recommendation which indicates that the existing tree buffer established on the east and west side of the property are to remain in place and the inventory storage area to be limited between the trees. She indicated the trees appear to be somewhat outside of the 600 feet. She explained that she is looking to help protect the neighboring properties for single family residential use, which has been there for years.

Mr. Bolstetter said they plan to simply leave the trees the way they are.

Mrs. Wolgamood asked if they will be adding an additional fence line north and south to the east of the trees and Mr. Mackelprang said they have no intention of doing that.

Mr. Bolstetter pointed out the current location of the chain link fence and they will be leaving it untouched with the exception of adding a gate.

Mr. Wolgamood noted that she saw Bravo Trailers somewhere in the application and asked what their connection is. Mr. Mackelprang said they are the representatives for Bravo

Trailers and they lease the building from Hi-Tech. Bravo Trailers is the actual manufacturer in that building.

The Board then asked if the property to the west is involved and Mr. Bolstetter indicated no, that is another company.

Mrs. Wolgamood questioned the lighting on site and Mr. Bolstetter said they have existing lighting on the back of the building right now.

When she asked if they will be adding any additional lighting, Mr. Bolstetter said if the Board feels they need some lighting there, they can install some. The existing operation runs from 6:00 a.m. to 4:00 p.m., so they don't have any lighting there now. They would be willing to put lighting there if deemed necessary.

Mrs. Wolgamood suggested they don't add anymore lighting as that will interfere more with the single family residences to the west.

Mr. Hesser questioned whether the surface will be grass or blacktop and Mr. Mackelprang said grass.

Mr. Hesser questioned the site plan where it states "parking, blacktop and driveway information added 12/27/11." Mrs. Wolgamood said she felt that was referring to the parking area as the blacktop exists.

Mrs. Prough indicated that is correct. She also noted that the staff was aware that the site plan was not to scale. They discussed that and when they made their recommendation for approval; they were looking at an area that would start in the east and go over 600 feet and be 670 feet deep. They also scaled off the distance between the tree lines and it was at the 600 feet. The staff's recommendation was based on the 600 ft. x 630 ft. area.

Mrs. Wolgamood noted that the request is for the storage of cargo trailers, inventory and materials. She questioned what materials they are talking about. Mr. Mackelprang indicated this will be for storage of finished cargo trailers only. They try to keep all of their materials within the building.

Wayne Geggie 52956 CR 21, Bristol, was present to voice some concerns. Mr. Geggie pointed out his property on the aerial photo at this time. Hi-Tech Housing owns all of the property to the north. He is concerned that the storage area will leech into the property the north and he indicated there is a driveway there that goes to a house.

As long as everything is kept on the other side of the tree line, he has no objections to this request as it will all be directly behind their fence and behind their property. He doesn't want the business to inch its way towards his property.

Mr. Hesser clarified that what is being requested today is just for the eastern 600 feet of the parcel in question. Part of the conditions if the request is approved is that there is no access off of CR 21. If the request is approved and there are violations of that in the future, Mr. Geggie can contact the staff. If they wanted to expand in the future, they would have to come back before the Board to get the site plan changed and the neighboring property owners would also get notice of that request.

Mr. Geggie said as long as that's clear, he has no issues with the request.

Mr. Bolstetter asked if the commitment form is something that they need to do or if it is done by the county. Mr. Kolbus indicated that he and the staff prepare it and then the petitioner signs it.

Mr. Bolstetter also questioned the MS4 review. Mrs. Wolgamood informed him that he could speak with the staff regarding that issue.

The public hearing was closed at this time.

If approved, Mrs. Wolgamood would like to add to Commitment #1 ...”in accordance with a corrected site plan drawn to scale being submitted...”. She also suggested that they eliminate Commitment #5 requiring lighting.

Mr. Kolbus said he believes that Condition #2, which approves the permit for a period of two (2) years, should be moved down to the commitments. When he asked the board if they would also like to stipulate “storage of finished goods only with no raw materials”, Mr. Miller said he would.

As tenants of the facility, Mr. Bolstetter said they have an option to purchase the property in the three-year lease they have with Hi-Tech, which they are very interested in doing. They have already put a substantial investment into the property and he said they want to do more over the next several years within the existing site. If this two year permit becomes something that is not going to be renewable, he said they cannot purchase the building and keep the business there. If approved for two years, Mr. Hesser explained that they will have to come back for a renewal. If there hasn't been any problems, typically he said they are renewed, but there is no guarantee.

Mr. Bolstetter asked if there is any way to remove that limitation, but Mr. Hesser said that is unusual with the first request.

Mrs. Wolgamood asked when their lease is up Mr. Bolstetter said September 2013. It was pointed out that the Special Use would not be renewed until January 2014, but Mr. Kolbus said they are not prohibited from coming in prior to that renewal date to request that the Special Use be made permanent.

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 the Findings of the Board, and based upon these Findings, this request for a Special Use for warehousing and storing of cargo trailers, inventory and materials in an A-1 district (Specifications F - #44) be approved by the Board with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after BZA action on the petition for placement in the petition file.

The following commitments were also imposed:

1. Approved as represented in the petitioner's application and in accordance with a corrected site plan drawn to scale being submitted with the exception that a dust-free surface for the storage area be maintained.
2. Movement of inventory to be internal only.
3. The existing tree buffer established on the east and west sides of the property to remain in place and the inventory storage area to be limited between the tree lines.
4. No loud speakers.
5. Approved for a period of two (2) years with renewal before the Board of Zoning Appeals.
6. Existing fence to remain on site.
7. All access to the storage area to be from CR 8 with no access from CR 21.
8. Storage is for finished goods only with no storage of raw materials

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

8. The application of ***Pineview Parochial School and Tri-County Church*** for a Special Use for a school (Specifications F - #38) on property located on the North side of CR 46, 1,390 ft. East of St. Joseph County Line Road in Locke Township, zoned A-1, came on to be heard.

There was one (1) photo of the property 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 #OCR 46-111206-1*.

There were five (5) neighboring property owners notified of this request.

Jay Beachy, 8611 W 750 N, Etna Green, Indiana, was present representing the Pineview Parochial School. Mr. Beachy explained they would like to build a parochial schoolhouse for first through eighth grade and also a barn for horse storage.

When Mr. Hesser asked if there will be two classrooms and Mr. Beachy indicated it will only be one open classroom with two teachers. One portion of it will be for a play area and the other portion will be for a classroom.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a school (Specifications F - #38) be approved with the following conditions imposed:

1. All required permits to be obtained.
2. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after BZA action on the petition for placement in the petition file.

The following commitment was also imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioners' application.

With a unanimous roll call vote, the motion was carried.

9. The application of ***Gary E. & Kimberly A. Stout*** for a Special Use for a home workshop/business for a fitness training business (Specifications F - #45) on property located on the South side of CR 2, 3,483 ft. West of CR 5, being Lot 1 of Miller's Wee Acre, common address of 30242 CR 2 in Cleveland Township, zoned A-1, came on to be heard.

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

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #30242CR 2-111212-1*. A letter in support of this request from a neighbor, Doris Miller, was then submitted to the Board *[attached to file as Staff Exhibit #2]*.

There were four (4) neighboring property owners notified of this request.

Attorney Rebecca Butler-Power, 221 W. Lexington, Elkhart, was present representing the petitioners on behalf of this request. Mrs. Butler-Power explained Gary Stout has been a long-time client of hers and he is into personal fitness. He had been operating a home business where he has between two and three clients a day come to the house to do one-hour personal fitness training. He does not offer classes and that is not something that he is interested in.

The neighbor who is most directly affected by this has submitted a letter to the Board in support of the request.

Mrs. Prough's comments do point out that the statutory requirements are met, that the spirit, purpose and intent of the Zoning Ordinance is not contravene by this proposed use, it won't cause any permanent injury to the neighboring property owners and that it will serve the public convenience and welfare by providing the individual personal fitness training.

Mr. Hesser noted there was a letter included stating that the signs will be brought into compliance as soon as the weather permits. Mrs. Butler-Power said that is correct. The currently sign is three feet into the ground and the petitioner can't get it out while the ground is frozen.

Mr. Hesser asked if they had any issues with any of the recommendations in the staff report and the petitioner's representative said no, they were satisfied with all of those.

Mrs. Wolgamood asked if the lady who wrote the letter lives on the property adjacent to the east. Mrs. Butler-Power said yes because the rest of the surrounding properties are undeveloped land.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood noted there was no mention of a timeframe for this Special Use. Typically, she said the Board imposes a timeframe when a Special Use is first granted, and particularly in this case because this came in as a complaint. Mr. Miller was in agreement.

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 the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for a fitness training business (Specifications F - #45) be approved by the Board with the following conditions imposed:

1. The existing signage to be brought into compliance with the requirements for a home workshop/business within 120 days.
2. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after BZA action on the petition for placement in the petition file.

The following commitments were also imposed by the Board:

1. Approved in accordance with the site plan submitted and as represented in the petitioners' application.
2. Approved for a period of two (2) years with renewal before the Advisory Board of Zoning Appeals.

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

10. The application of *Patchwork Quilt Country Inn, LLC/Edmond R. McKean (owner) and Karl & Ellen Kunisch (buyers)* for an amendment to an existing Special Use for a Bed and Breakfast Inn (Specifications F - #4.51) to allow for wedding venues and to amend the parcel size on property located on the Southeast corner of CR 2 curve, 1,365 ft. East of CR 39, common address of 11748 CR 2 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 #11748CR 2-111216-1*. She reported that the Staff would be supportive of amending the size of the parcel for the original Special use permit. A letter in support of this request from Diana Lawson, the Executive Director of the Elkhart County Convention & Visitors Bureau [*attached to file as Staff Exhibit #2*], was then submitted to the Board.

There were six (6) neighboring property owners notified of this request.

Present on behalf of this request was Karl Kunisch, 515 Sunset Lane, Middlebury.

The property owner, Edmond McKean, 11748 CR 2, Middlebury, was also present and he submitted several photos of the barn on this site [*attached to file as Petitioner Exhibit #1*]. Also submitted was a letter from the Middlebury Township Fire Department [*attached to file as Petitioner Exhibit #2*], which indicates that all buildings on the subject property can be accessed by the fire department apparatus without any problems. In addition, letters in support of this request from John & Adrienne Cohoat [*attached to file as Petitioner Exhibit #3*], and from Dianne Debelak, Vice-President of the Homespun Country Inn [*attached to file as Petitioner Exhibit #4*], were submitted by Mr. McKean.

Mr. Kunisch explained that two years ago, his daughter was got married and was looking for a place the wedding. She wanted to get married in a barn, so they had to go about an hour and a half away to find that, so that's what instigated this situation.

They have no interest in running a full service restaurant. The barn on the property is unique and is very sturdily built. The property is unique for this and they have had people request to have weddings on the property in the past. He has been working with the Health Department on some issues as well. Mr. Kunisch indicated they would be fixing the barn up and renting it to whoever would want it. The people renting it would then be responsible for their own caterers, DJ's, etc.

The brochure that was submitted to the Board was from a similar operation in Traverse City, Michigan. They have been in the business for 15 years. He also indicated there are two similar operations in Watervliet and about five in the Traverse City area, as well as some more in Chicago. The restaurant hasn't been run as a restaurant for a few years and they have no plans to do that.

Mr. Hesser questioned what they plan to do with the restaurant and Mr. Kunisch said they will be running the bed and breakfast to supplement. He feels it would be great for people to come in for weddings and rent the rooms also. During the week in the winter, they will run it as a full bed and breakfast. They may have some special events there also. He's hoping they can have some smaller weddings there in the future.

When Mr. Hesser questioned the seating capacity of the dining room, the petitioner indicated 100. He noted there are nine rooms in the building.

Mrs. Wolgamood asked what the small framed building on site is used for. Mr. Kunisch said there is a lodge that gets rented and the other half is a recreational room with pool tables and gym equipment.

She also asked if the bed and breakfast is entirely within the large building. The petitioner said the upper building is the innkeeper's quarters where he and his wife stay. There is a dining room/gathering area and there are five rooms in the lower section. There are a total of nine rooms.

Mr. Miller questioned what the work they are doing with the Health Department entails. Mr. Kunisch said the field system is big enough to handle everything, but he suggested putting another field in for that and they just received the approval from the State to put in another

system for the barn. There won't be any cooking in the barn as it will all be catered. There will be bathrooms in the barn and Mr. Hartsuff suggested putting another one in.

Mrs. Wolgamood asked if he's saying they will not utilize the existing kitchen area to cater the venue and Mr. Kunisch said correct. The people who rent the structure will be hiring their own caterers for the wedding. The existing kitchen will be used only for the bed and breakfast.

The petitioner noted they are trying to change the use of the property from a bed and breakfast to a wedding venue. The previous Special Use was to serve 150 people per day, but he indicated that not all of the parties will be that large.

In regards to the increase in traffic, Mr. Kunisch said both neighbors are in favor of this request. They also have a letter from the fire department stating that the site is easily accessible.

He feels this business will benefit the public convenience and welfare as it will help bring more business to the area. When they were in Watervliet, they have one hotel there, two barns and it was full all weekend long. He's hoping it will bring business from the outside to the area.

Mr. Miller questioned whether they will be doing energy upgrades or whether this will be more of a weather-type business. Mr. Kunisch said it will closed during the winter. It will operate April through October. He would have no objection to that being set as a condition.

Jackie Hughes, Executive Director of the Elkhart County Convention and Visitors Bureau, 219 Caravan Drive, Elkhart, was present in support of this request. Mrs. Hughes said the Patchwork Quilts Country Inn has been associated with this destination for many, many years. It is a viable tourism asset and has been featured in many publications including Midwest Living. It's long recognized and established in this area. She indicated that keeping the business viable is important to her and the tourism industry in this area.

Tom Canarecci, 58531 Sunlit Boulevard, Goshen, was also present in favor of this request. Mr. Canarecci indicated he is the listing broker for this property. To expand upon what Mrs. Hughes said, he feels at this particular time to have a venue like this that is so unique to the area to bring in additional revenue to the merchants in the area it would be a great benefit. He submitted an overlay map of some of the additional Bed and Breakfasts in Elkhart County *[attached to file as Petitioner Exhibit #5]*, which he said may benefit from some of the overflow from the weddings.

The public hearing was closed at this time.

Based on the testimony given, Mr. Miller asked the staff if they maintain their recommendation for denial. Mrs. Prough said that no neighbors have spoken against this request and the petitioner has demonstrated that the Fire Department has no problem for emergency vehicles. The staff did an analysis of the parking and she said it appears they can comply with parking requirements. Mrs. Prough said they would have to bring the barn up to commercial building codes since it will be used by the public and they are working with the Health Department. Based on what has been submitted today, she feels the staff could be in support of this request.

Mrs. Wolgamood noted that they are proposing another 2 x 4 ft. sign, but she did not feel that was an issue.

Mr. Hesser expressed his concern about imposing conditions when they approve a request with a staff recommendation for denial, but he doesn't know what the solution is to that.

Mr. Kolbus suggested they impose the following four commitments:

1. Approved as represented in the petitioners' application and in accordance with the site plan submitted.

2. All State and Health Department permits must be obtained.
3. The barn is to be brought up to commercial standards, if required by building codes.
4. The barn to be used for special events during the months of April through October.

Mrs. Prough also suggested that they are to be in compliance with the developmental standards of the ordinance which will address parking. She said they have no problems with the proposed signage.

Mr. Kolbus said the standard language for the condition is that the approval would not be effective until the commitment has been executed, recorded and returned to the staff within 60 days.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Wolgamood*) that based on the Petitioners' testimony and revised recommendation of the Staff, the Board approved this request for an amendment to an existing Special Use for a Bed and Breakfast Inn (Specifications F - #4.51) to allow for wedding venues and to amend the parcel size with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after BZA action on the petition for placement in the petition file.

The following commitments were then imposed:

1. Approved as represented in the petitioners' application, presentation and in accordance with the site plan submitted.
2. All State and Health Department permits must be obtained.
3. Barn to be brought up to commercial standards.
4. Barn to be used for special events (weddings) during the months of April through October.
5. In accordance with all developmental standards of the Zoning Ordinance, including parking.

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

11. The application of ***Edward W. & Linda Gillespie (landowners) and Aaron & Angela Gillespie (occupants/business operators)*** for a Special Use for a home workshop/business for a second hand furniture store (Specifications F - #45), a Developmental Variance for a second sign, and a Developmental Variance to allow for outside display on property located on the North side of CR 10 (Bristol Street), 225 ft. West of Glenwood Park Drive, 1,800 ft. East of CR 13, common address of 23653 CR 10 in Osolo 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 #23653CR 10-111219-1*. She amended the Staff Report by moving Condition #1 which states, "Home Workshop Business approved for a period of one (1) year only" to the list of commitments.

There were 22 neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th St., Goshen, was present representing all petitioners. Mr. Pharis noted that Aaron and Angela Gillespie were also present in the audience. He is pleased to present an owned resale, internet sale and pickers sale organization.

Mr. Pharis explained that in the mid-2000's, Aaron and Angela Gillespie had outstanding jobs in the construction industry. They were making good incomes working for a firm that had over 30 employees. Mr. Gillespie's skills were in flatwork or concrete work and they were doing 40 to 50 basements per year. Mrs. Gillespie worked for her father's business, Dallas Fireline, as the bookkeeper and account. She would come to this building and obtain permits. Their business was thriving. They owned their own home and took \$50,000 of their own money and invested in a spec home. In 2009, home building disappeared in Elkhart County. Dallas' business went from 32 employees to two, he and his son. Mrs. Gillespie lost her job and Mr. Gillespie lost his job.

Mr. Gillespie's skills are not really transferrable to anything other than the construction industry. He has sent out hundreds of resumes, phone calls, responded to ads with no job offers. Mrs. Gillespie's skills were transferrable and she quickly got a job with a large RV company in the accounting department. The job offered a good salary and benefits to include dental and health insurance. Both had dental work done and they paid their premiums. Mrs. Gillespie got sick, was diagnosed with cancer and while she was in the hospital, she received a phone call that the company had gone out of business. She no longer had a job and no longer had benefits. They thought that the insurance bills would be paid, however; the insurance companies did not pay those bills. Their dental bills, their doctors and their hospital bills have been laid on their backs.

First they lost the spec home and that \$50,000 and then they lost their own home. They packed up their furniture and moved it into Dallas' barn and then moved in with Dallas and his wife. They were living with their parents with no jobs, Mrs. Gillespie was fighting cancer and they had a 14-month old baby. Mr. Gillespie and a friend started reselling the furniture and the equipment in the barn and found that not only could they make a living, but Mr. Gillespie found that he was good at it and enjoyed it. That's why we're here today.

They then decided to move into Mr. Gillespie's parents' home. His parents were traveling, they had renters who had trashed it, they came back, kicked the renters out and Mr. and Mrs. Gillespie moved in. In that home, you have the house, the pool, garage and an additional garage with a concrete parking area. They thought that because it was there house, they could do what they wanted with their own property. They moved some of the furniture that they found and started displaying it and selling it.

All was going well, but then a complaint was filed with the Code Enforcement. They were then told they weren't able to run the business without a permit. They were advised to file for a re-zoning of this property to B-1. This certainly aggravated the neighbors and generated neighborhood petitions opposing the re-zoning to B-1. The City of Elkhart even got involved and wrote a letter in opposition to a B-1 zoning, even though this is located in the County. The Plan Commission recommended denial and the County Commissioners denied the petition. That's why they are here today to ask for the Special Use.

Mr. Pharis submitted a list of Self-Imposed Commitments for this proposed Special Use request *[attached to file as Petitioner Exhibit #1]*, which he went on to review with the Board. He pointed out that they are asking for approval of the Special Use for one (1) year from the date of approval. During that one year if the business is successful, they will move to a commercial site and generate the cash flow.

The second commitment is signage. They are permitted one sign on the site and on the front of what they call the store, they want to put a sign that says "Owned" lighted with

incandescent lighting. They had complaints from the manager of Brentwood which surrounds them regarding traffic coming into his driveway. They would like to place a sign in that location saying "Owned Enter" to direct traffic into their driveway. They found out that they had to be 55 feet from the county road. He pointed out the location that the sign would be located on the aerial photo. He noted it would be of no value being located there as it wouldn't help anybody find their driveway. They are asking to withdraw that request for the second sign. They can't have it where it would do any good, so they don't want it at all.

The third commitment is in regards to parking. The Zoning Ordinance requires that they have five parking spaces. They have demonstrated that they have five spaces and with the Board's approval, they'll either be painted or striped to identify them. There is additional parking on the site for Mr. and Mrs. Gillespie and their vehicles. This parking is such that you can pull in, back out and pull out of the driveway. You are always heading out of the driveway with the front end of your vehicle.

As far as hours of operation, they are asking to operate 9:00 a.m. to 7:00 p.m., Monday through Thursday. On Friday, they would like to operate 9:00 a.m. to 8:00 p.m. or dark, and Saturday, they asked for 6:00 a.m. because a couple of times a year such as the day after Thanksgiving, they like to participate in the Black Friday sales as well, and then closed on Sundays.

Mr. Pharis said there will be no outside storage on the site.

Mr. Hesser asked if they don't want outside storage, but they still want outside display. Mr. Pharis indicated he has a seventh item he is requesting, but there will be no outside storage.

The deliveries to the site will be by pickup truck, pickup truck with a trailer or small van. There will be no semis and no large trucks. The second Variance they are requesting is the ability to have an outside display in front of the doors to this garage or store no more than 10 feet and only be available to customers Friday and Saturday from 10:00 a.m. to 4:00 p.m. The only Variance they are asking for is for the display area.

Also submitted by Mr. Pharis was a letter he sent to neighboring property owners within 500 ft. of the site in question *[attached to file as Petitioner Exhibit #2]*. Three of the letters were returned as undeliverable. He received an email from one of the neighbors, but he said no phone calls were received in response to his letter. Attached to this letter is a drawing showing the site in question with the highlighted area being the 500 ft. around the site. In addition, comments were obtained from neighbors directly adjacent to the east side and across the street from the subject property. He then clarified that the number of the comment correlates to the location of that neighbor's residence on the drawing. He said they have confirmed the addresses of those neighbors who have signed, and learned that item #3 was signed by the tenant rather than the owner who was listed. That is one of the three letters that were returned as non-deliverable. In addition, he said the husband of the landowner of house #5 signed the initial comment that he had no objections, and she sent her comments in support of this request by email, which is also attached.

Mr. Pharis explained they have a favorable staff report for a one year commitment. They are asking for one Variance and they hope the Board can approve their request. He indicated he is available for any questions for that the Board, staff or the public may have.

Mr. Miller asked if the items in the display area would be taken inside each night and Mr. Pharis said yes.

Mrs. Wolgamood asked if the turnaround would also accommodate a pickup truck with a trailer on it. Mr. Pharis said that is exactly how Mr. Gillespie is getting in and out now. He has a

pickup truck with a trailer and he pulls in and backs up. He has a friend, Mark, who sometimes works with him and is the part-time person, who is in the same situation. He can bring his truck in, clean the items up and put them in the store.

When the Board questioned the sign, Mr. Pharis indicated it will say "Owned" in incandescent lighting. There won't be any neon lights or flashing lights.

Mrs. Wolgamood questioned the overall size of it and Mr. Pharis said 1 ft. high x 2 ft. wide as per site plan, which is permitted by the Zoning Ordinance.

Mrs. Prough indicated that the Zoning Ordinance states that the sign is to be non-illuminated. Mr. Pharis said the sign is non-illuminated. They will have a light shining on it.

Mr. Hesser questioned if that is permitted without a Variance and Mrs. Prough said a Variance would be required if they want it to be lighted.

Mr. Miller asked if the light would go off when the business closes at night and the petitioner's representative said that is correct. He noted it wouldn't be any different than a light that is on a garage, other than it will be directed to the sign.

Present in opposition to this request was David Henke, 1752 Crabtree Lane, Elkhart. Mr. Henke said he lives quite close to this location, but he is also the Executive Director of Brentwood, the retirement community that is not visible directly in this area, but is a five million dollar structure sitting right next door. Their signage within their zoning rights cost several hundred thousand dollars to appropriate their building and their signage to the property. Like a normal business, they sought the Variances prior to building. They didn't put a business in and then try to get the Variances to match what they were already doing.

Mr. Henke said there is outside storage already on the left side of the garage. He indicated there is a lawnmower that has been sitting there for more than a year. Normally there are tires sitting outside in that area as well. They have already been having to work with this for more than a year in non-compliance and that large chunk of cement was not permitted, and still remains in non-compliance. The yard has been eroded because of the trucks parking in the yard way and vehicles having to pull into the yard to make a turnaround.

He lives in Eastlake Estates and he noticed Mark's truck on one occasion on a trash pickup day. As he drove through the neighborhood, he was salvaging for scrap metal through their recycling bins. Mr. Henke indicated he saw three trucks unload scrap metal in the driveway at the property in question. Anything that looks sellable goes into the garage and that has been normal of that operation.

The garage is totally loaded top to bottom with items. He indicated they have no sprinkling system or fire suppression system. All of their vehicles have to park outside every day. If cars park within the two or three spaces that are being proposed, the view is blocked from anyone exiting the Brentwood property. He noted that one car parked in that driveway obstructs an ambulance or a fire truck from entering their property.

They had an issue in the past where the cops were called out to the site because a customer was parked in the driveway. The waste away truck couldn't navigate, so he just moved on and they lost service for that day. The petitioners made a homemade sign that says, "Do not park at Brentwood. They will tow you." Mr. Henke doesn't feel that's a positive image for the Brentwood community as they try to protect their business.

When Mr. Pharis talks about three homes that have signed affirmations of this request, Mr. Henke said there are only three county properties in this area. There is one directly east and

one across the street as Elkhart City has picked up Glenwood Park seven or eight years ago in annexation.

At the prior hearing which most residents thought they were done with this process, it went the way it should have. They don't spot zone and he feels that is what has caused problems for Elkhart County in general and Elkhart City specifically. They have a letter from the First State Bank in Middlebury, which is just to the east and they have a letter from the dentist who just a made a new investment of nearly 1.5 million dollars directly to the east. They have a petition with 78 names for people on the properties just behind this location called Evergreen. They also have signatures from 88 residents within the Brentwood structure who also thought they didn't have to come back.

Mr. Henke feels this request is outside of the boundaries of appropriate zoning. Its use is injurious to the Brentwood business itself. He feels it would look at other people who would like to invest in the area that they count on for their county and city revenue and it makes them rethink. As the City Councilman for that particular area, they have a councilman at large plus the township trustee representing Glenwood Park. They are asking the Board to stay with the original rezoning and deny this request.

The danger to this is that they are on an outside curb. Any signage obstructs traffic, any parking of cars within the first three spots of that property that should have never put that cement driveway all the way up to the road should have never happened. The right of way is missing; they've cemented over the whole property. If you have to go to that length to get five cars there and a trailer, he wonders how a truck and trailer get in and out. Backing onto Bristol Street with the traffic they have there on the berm of a curve is not able to be done safely.

Asking the aged residents at the Brentwood facility to navigate getting out of the property they pay rent to stay and have to look around signs, it can't happen. He realizes the story of some unfortunate decisions that have been made and he is suggesting this is another. He feels unfortunate for the medical issues that are happening within the family, but he doesn't think that is an appropriate reason to have a zoning change.

If they are going to compare medical histories, he offered the Board the 88 residents of the Brentwood facility who are there are medical purposes. The ambulance comes along with the fire truck at least once every two weeks and sometimes more frequently based on needs of the building. They can't afford to have their driveway obstructed and they can't afford to have more signs telling people where they can and cannot park. They can't have negative signs at this location impacting their business.

As far as compliance, when this petition started some time ago, there was an RV permanently parked in the driveway. Originally they said that nobody lived there but at a later date, they said there was somebody there but the RV was going to be leaving. There were cars and trucks parked in the yard on a routine basis, even though they said it was temporary. There were displays all the way through that front area. So far, they've had a great demonstration of non-compliance. They are suggesting that this economy also brings opportunity because there are more empty buildings available that are appropriately zoned if they want to get into this business. He is asking that the Board deny this request.

Mary Olson with the Elkhart City Council at large, 315 S. 2nd Street, Elkhart, was present in opposition to this request. Mrs. Olson explained that it's rare for her to receive as many calls as she has on this issue from both city and county residents who have known her for many years. The city and the county have enjoyed some development in that area during very

difficult times and there are businesses that are thriving. When they annexed in and made the change for Martin's and the development of the gas station, when they saw the development of a brand new funeral home, there were two wonderful developments on Bristol Street. Those are the kind of opportunities that present positive growth. The calls that she is receiving are people asking why they are having a perpetual garage sale on Bristol Street. With all due respect to this family, she feels that is the look when you drive by.

She feels that both the city and the county and trying desperately to create an environment that promotes growth, investment and safety. She feels the location of this home is very dangerous. She indicated the store is packed to the doors and they are moving merchandise all the time. She's not sure where they are getting it from, but she thinks they have some type of entity that is acting as a warehouse to bring this constant chain of merchandise. She asked that the Board deny this request based on common goals that the city and the county share regarding development and appropriate use of properties. Mrs. Olson indicated this is a residential area that people bought and invested in believing that the integrity of the community would remain as such.

Benny Russo, 3517 Briarwood Drive, Elkhart, was also present in opposition to this request. Mr. Russo explained he built a home at this location 1972 when there were only six homes and now there are 72. He also indicated he is the President of the subdivision association. He noted the traffic is very bad in this area.

Mrs. Wolgamood pointed out the area of discussion on the aerial photo at this time. Mr. Russo mentioned they do not support neighborhood garage sales and the residents do on their own.

In rebuttal, Mr. Pharis said his firm represented and designed Brentwood. When they came before the Plan Commission for that PUD, all of the neighbors around remonstrated against Brentwood. His firm also represented Pebblestone subdivision and all of the neighbors were against that as well. Mr. Pharis drives by Brentwood frequently and Brentwood is the vision he had years ago. The quest of remonstrations is historical and it's typically the same.

Mr. Henke is saying that the petitioners have concreted to the right-of-way, but Mr. Pharis indicated that is not true. He pointed out the location of the sidewalk, which is at the edge of the right-of-way. The petitioners have concreted to the back of the sidewalk. When the site plan was done, he had his staff sit in the driveway and give him line of sight in each direction. They had adequate line of sight to pull out of that driveway and make a left or right turn. Mr. Pharis was out to the site on Monday afternoon. The garage door was open and he was in the garage walking around. He noted that there are paths to walk through.

As far as inappropriate displays being on site before the petitioners knew what to do, Mr. Pharis said yes they did have some. Since it was there property, they thought they could do it, but now they know they can't.

Mr. Henke had also noted that there are tires and a mower being stored outside, but Mr. Pharis said they weren't there when he was on site on Monday. There was one for refuse, one for recyclable cans and one for recyclable metal. When they are filled, they take them to Martin's and put them in the recycling bins. Mr. Pharis was on site for about 20 minutes and in that time, there were ten cars that came and went from the Brentwood facility. Assuming that was an unusual period, there would be 300 cars per day. He indicated it may even be less than that at about 150 cars per day. Mr. Pharis explained that the petitioners' vehicles are parked behind the sidewalk.

Since the denial of the rezoning, nothing has happened. Mark is no longer part of the business because he had to go about his own business. There are three properties in this area that are zoned R-1. Brentwood surrounds their property and its zoned business. To the east of these three properties, everything is business all the way to Cobblestone.

Mr. Pharis noted that the neighbors across the street and the neighbor adjacent that are most impacted by this operation have all sent letters to the Board indicating that they are in favor of this request. He feels this is a reasonable request.

Mr. Hesser asked if the staff inspected site, specifically the inside of the building. Mrs. Prough no, they did not go inside the building and at the time of inspection, their garage door was closed. They did measure the parking and it met the requirements and setbacks.

The public hearing was closed at this time.

During discussion, Mr. Miller said he could support this request only if there is absolutely nothing outside as recommended by the staff.

Mrs. Wolgamood pointed out that the petitioners are requesting a Special Use for a limited amount of time. She agreed with Mr. Miller that there should be no outside display because she feels that is a real distraction.

While referring to the list of self-imposed commitments (Petitioner Exhibit #1), she expressed her concern with five cars parked along the west side of the (Gillespie) property because the access to Brentwood is on an outside curve. However, she did say that you can see if you are cautious (when pulling out) as indicated by Mr. Pharis.

Mrs. Wolgamood also pointed out that Brentwood is zoned commercial with a Planned Unit Development so they cannot use it for anything other than its current use. Everything else around it on the south side is single family residential. Because this will be temporary for one (1) year, she personally does not see any reason why this request should not be granted. With all of the commitments in place she said it will be gone at the end of that year. She has no issue with one (1) sign being placed as suggested on the outside of the building, but she feels they should not be allowed to operate until dark as it can still be light at 10:00 at night in the summer. She suggested they stipulate 8:00 p.m. and delete the reference about "dark". She also suggested they add "or display" to commitment #5, which stipulates there be no outside storage.

For clarification, Mr. Hesser noted the hours of operation in the Staff Report indicate 7:00 p.m., but the self-imposed commitments state 8:00 p.m. When Mrs. Wolgamood asked the staff if there is a reason they chose 7:00 p.m., Mrs. Prough said they felt it would be better to keep the hours the same each day for enforcement purposes. She also said the staff would not support 6:00 a.m. on Saturday morning.

Mr. Hesser felt the Staff Report and the modifications to the self-imposed conditions is an appropriate compromise. Mrs. Wolgamood then stressed that she is looking at this as a land use issue.

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

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart

County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after BZA action on the petition for replacement in the petition file.

In addition, the following commitments were imposed by the Board:

1. Home workshop/business approved for a period of one (1) year only. Business will relocate on or before or cease operation at that time.
2. Home workshop/business to be operated by the occupants of the residence on site.
3. Days and hours of operation to be Monday through Saturday, 9:00 a.m. to 7:00 p.m., and closed on Sunday.
4. One (1) full-time employee and one (1) part-time employee who are not occupants of the residence on site.
5. Business to be operated from the existing 24 ft. x 32 ft. detached garage on site, in compliance with the definition of a home workshop/business.
6. All parking related to the business to be maintained on site with no parking permitted on an unpaved surface.
7. No outside storage or display of any type.
8. Signage limited to a 1 ft. x 2 ft. sign placed on the face of the garage with the sign to be removed at termination of the Special Use.
9. Five (5) parking spaces will be striped on concrete (per site plan) allowing ample space to back up and exit with front of vehicle. Personal vehicles will be parked on concrete.
10. Deliveries to and from site will be limited to pick-up trucks, pick-up trucks with trailer and vans; no semis or large trucks will be permitted.

With a unanimous roll call vote, the motion was carried.

A motion was then made and seconded (*Miller/Wolgamood*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, the requests for a Developmental Variance for a second sign and a Developmental Variance to allow for outside display be denied. A roll call vote was taken and the motion carried unanimously.

12. The application of ***John E. & Geneva Faye Yutzy*** for a Special Use for a home workshop/business for a woodworking business (Specifications F - #45), and a Developmental Variance to allow the total square footage of accessory structures to exceed the total square footage of living area in the residence on property located on the North side of CR 36, 660 ft. East of CR 31, common address of 15733 CR 36 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 #15733CR 36-111219-1*. She then submitted a letter in support of this request from neighbors Steve and Alice Slabaugh *[attached to file as Staff Exhibit #2]*, who indicate they are the closest neighbors to the north side of the petitioners.

There were seven (7) neighboring property owners notified of this request.

Present representing the petitioners was Blake Doriot, B. Doriot and Associates, P.O. Box 465, New Paris. Mr. Doriot pointed out the petitioners' home on the aerial photo. Mr. Yutzy has a wood finishing business. His woodworking and furniture is done in a shop in an area on the upper floor of the barn and then he has storage alongside. A petition signed by neighbors in support of this request was then submitted to the Board *[attached to file as Petitioner Exhibit #1]*.

As going through his PowerPoint presentation, Mr. Doriot pointed out the barn where the woodworking is done. He displayed visuals of the furniture finishing building, material storage in the barn and the wood shop in the barn. They are asking to place a small 2 ft. x 2 ft. sign on site. Mr. Yutzy would also like to have one employee.

Mrs. Wolgamood asked about workshops being in both buildings and Mr. Doriot said the barn has an area for finishing and the woodshop is contained in the upper portion of the other barn. That is where he does all of his cutting and he makes sure to keep all of the dust separate.

When Mrs. Wolgamood questioned how long the petitioner has been doing this business, Mr. Doriot said since 2002. He explained that what brought this about was that Mr. Yutzy came in to obtain a gas line permit and it was then revealed that he had a business.

She asked if there is adequate room for turnaround for semis and Mr. Doriot said yes, but indicated semis are very, very rare.

Mrs. Wolgamood verified that the hours of operation would be Monday through Friday, 5:30 a.m. to 2:00 p.m. Mr. Doriot indicated that was correct.

After discussion regarding the sign, it was clarified that it will be 2 ft. x 2 ft. and will meet the proper setbacks.

Mr. Hesser said his recollection is that they are not building anything new on site. Mr. Doriot said that is correct. The only reason they need the Variance is because they are converting agricultural use to non-agricultural use.

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/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for a woodworking business (Specifications F - #45) be approved by the Board with the following conditions imposed:

1. The two existing zoning parcels to be combined on one deed and recorded to designate one zoning parcel and a copy of the deed to be submitted for the file.
2. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff within sixty (60) calendar days after Board of Zoning Appeals action on the petition for placement in the petition file.

In addition, the following commitments were imposed:

1. Approved for the owner/occupant of the residence on site.
2. Approved in accordance with the site plan submitted and as represented in the petitioners' application.

With a unanimous roll call vote, the motion was carried.

A motion was then made and seconded (*Wolgamood/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, the request for a Developmental Variance to allow the total square footage of accessory structures to exceed the total square footage of living area in the residence be approved by the Board in accordance with the site plan submitted and as represented in the petitioners' application. A roll call vote was taken, and with a unanimous vote, the motion was carried.

13. The application of *Norman E. Lehman (buyer) and Tri-County Land Trustee Corporation (seller)* for an amendment to the site plan and conditions of an existing Special Use for a home workshop/business for a retail store (Specifications F - #45), and for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure on property located on the North side of CR 16, 1,900 ft. East of CR 116, common address of 11401 CR 16 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]*.

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #11401CR 106-111121-1*. A letter from Diana Lawson of the Elkhart County Convention and Visitors Bureau in support of this Special Use amendment was then submitted to the Board *[attached to file as Staff Exhibit #2]*.

There were 13 neighboring property owners notified of this request.

Present on behalf of this request was Blake Doriot of B. Doriot & Associates, P.O. Box 465, New Paris. He noted that Mr. Lehman and some of his friends and family are also present. A copy of his PowerPoint presentation was submitted to the Board *[attached to file as Petitioner Exhibits #1]*.

Mr. Lehman currently runs Dutch Country Market on CR 16, which Mr. Doriot pointed out on one of two large aerial photos he submitted to the Board *[attached to file as Petitioners Exhibits #1 and #2]*. He also noted the Middlebury town limits to the east and the county line to the west. According to Mr. Doriot, CR 16 is the tourism corridor between Middlebury and Shippshewana.

Two (2) petitions in support of this request were then submitted to the Board *[attached to file as Petitioners Exhibits #3 and #4]*. He reported that these petitions were signed by every individual along the road in an area he pointed out on the aerial photos with the exception of one individual who was gone. Mr. Doriot read the petition to the Board at this time.

Dutch Country has embraced Elkhart County tourism and it blends well the current surroundings. They have a safe entrance and what they would like to do is expand their storage. As far as the outside storage of the pallets, the petitioner wasn't aware that those weren't allowed. Those will now be gone. There may be on site for one day until they can be picked up to be recycled.

A photo of the store on the PowerPoint was displayed at this time. Mr. Doriot said they have a sign that says "Jumbo Jelly Beans." They have some chairs out front that are sold to the Elkhart County public and the tourists.

Mr. Doriot explained that just down the road is the hay sale. The hay sale is one day a week. He also noted the Mennonite Disability facility is in the area, as well as Middlebury Poultry.

He then displayed some of the products that are sold by the business included jumbo jelly beans and Kate's noodles. He indicated they are stacked to the rafters and need more room for storage. The tourism demand is pushing them. They will extend out another 10 feet. Mr. Doriot proceeded to point out other businesses in the area.

A video highlighting various Middlebury businesses, including the Dutch Country Market, and a video of the Quilt Garden Tour of which Dutch Country Market is part of were shown to the Board. Both videos can be viewed from the Elkhart County Convention and Visitors Bureau website.

They want continuation with the expansion with no outside storage. After they had done the application, the signage became more of an issue. They will be back for the signs, but they

would like to get a continuation so they can still operate with what they have. They will be back with a sign request in March.

Mr. Hesser noted the number of employees states three and asked if that is consistent. Norman Lehman, owner of Dutch Village, 11401 CR 16, Middlebury, indicated that as far as the employees, they started out with two part-time. He, his wife and their six kids also help out. They now have three part-time outside employees who work less than 40 hours three or four days a week.

Mrs. Prough pointed out that this isn't just an amendment to the site plan. This is also an amendment to the conditions as well. The amendments are for the number of employees, signage and the hours of operation.

Jackie Hughes, Executive Director of the Elkhart County Convention and Visitors Bureau, 219 Caravan Drive, Elkhart, was present in support of this request. Mrs. Hughes said that Lehman and Dutch Country Market has been a valued tourism partner. They deliver an authentic experience for the visitor and the local residents. She feels they meet and often exceed their expectations. She feels they are definitely an asset to the community.

Mr. Hesser said the focus today should be based on the expansion of the storage area. He doesn't feel they can change the two employee cap with it still being a home workshop.

Mr. Doriot said if they have to expand again, they will go with the PUD. They aren't looking for that right away, but as far as the next expansion, he had talked to Mr. Lehman and told him that the time will come for a PUD.

Mr. Hesser asked if he could live with the two employee limit. Mrs. Prough clarified that they have been accepting Developmental Variances for definitions such as signage and to allow for an additional employee. She asked the petitioner if all three part-time employees work at the same time and said they can ask for a Variance for an additional employee.

Mrs. Wolgamood said she understands their concerns about time constraints. This is a warehouse and won't take that long to construct. She asked the petitioner if it would be better to ask that this request be tabled and have him amend the request. That way everything could be brought back in its entirety and have a Board with all members present. Mr. Doriot said they are not able to come back until March.

Mr. Hesser asked if they are okay with constructing the building when there is a possibility that the Board may say no to the signage request later on. Mr. Doriot said they would like the approval for the building now and then address the remaining issues at a later date.

The public hearing was closed at this time.

During discussion, Mr. Kolbus clarified that this request would be to amend the site plan only to allow for the two proposed additions and not the conditions of the existing Special Use Permit.

Mrs. Wolgamood feels this business is in conjunction with almost everything along the Heritage Trail and CR 16, and she has no objection as long as there are no outside displays or outside storage of pallets, etc.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Wolgamood/Hesser*) that the request for an amendment to the site plan (not the conditions) of the existing Special Use for a home workshop/business for a retail store (Specifications F - #45) be approved by the Board for the addition of the warehouse and the 20 x 26 ft. addition to the main structure (adjacent to the honey work room area shown on the site plan). A roll call vote was taken and the motion was carried with a unanimous vote.

A motion was then made and seconded (*Wolgamood/Miller*) that the request for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure be approved by the Board for a difference of 3,460 sq. ft. as represented in the petitioners' application. The motion was carried with a unanimous roll call vote.

Mrs. Prough then requested that the site plan on the original Special Use granted April 17, 2003, be amended to remove the two greenhouses, as requested by the petitioners, as the original site plan was approved with greenhouses being shown.

Mrs. Wolgamood moved that the greenhouses shown on the original site plan of the existing Special Use be withdrawn as requested. Mr. Hesser seconded the motion, which then carried with a unanimous roll call vote.

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

15. At this time, Mrs. Prough entered into the record the Certification of Residency forms signed today by Meg Wolgamood, Doug Miller and Randy Hesser [*see attached Staff Exhibits #1, #2 and #3*].

16. Mr. Godlewski advised that he would be sending a request to board members, Mr. Kolbus and the four managers with multiple dates to schedule the Plan Commission / Board of Zoning Appeals Retreat. He indicated that it would probably be scheduled for some time in March.

17. The meeting was adjourned at 11:45 a.m.

Respectfully submitted,

Kate A. Keil, Transcriber

Sandra Herrli, Recording Secretary

Randy Hesser, Chairman

Robert Homan, Secretary