

**MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 21<sup>st</sup> DAY OF JUNE 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 Vice Chairman, Doug Miller with the following board members present: Robert Homan, Tony Campanello, and Meg Wolgamood. Staff members present were: Chris Godlewski, Plan Director; Ann Prough, Zoning Administrator; Brian Mabry, Plan Manager; Mark Kanney, Planner; Kathy Wilson, Office Administrator; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Wolgamood/Homan*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17<sup>th</sup> day of May 2012 be approved as read.

3. A motion was made and seconded (*Campanello/Wolgamood*) that the legal advertisements, having been published on the 9<sup>th</sup> day of June 2012 in the Goshen News and on the 10<sup>th</sup> day of June 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 (*Homan/Wolgamood*) 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. The application of **Dale D. & Barbara A. Miller (buyers) and Michael J. Stump (seller)** for a Special Use for an agricultural use for the keeping of horses on a tract of land containing three acres or less (Specifications F - #1) on property located on the Northwest corner of SR 13 and CR 44, common address of 67835 SR 13 in Benton Township, zoned A-1, came on to be heard.

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

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #67835SR 13-120521-1*.

There were eight neighboring property owners notified of this request.

Dale Miller, 12481 CR 38, Goshen, was present on behalf of this request. Mr. Miller stated he is requesting this Special Use permit so he can have his horses on his property.

*\*\*It should be noted that Randy Hesser arrives.\*\**

Mrs. Wolgamood asked about fenced area for pasture which Mr. Miller pointed out on the aerial photo. He suggested it will be approximately one acre. Mrs. Wolgamood asked and Mr. Miller confirmed the request is for three horses and one miniature pony.

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 (*Campanello/Miller*) that the Board adopt the Staff Analysis as the Findings

and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of horses on a tract of land containing three acres or less (Specifications F - #1) be approved 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 for placement in the petition file.

The following commitments were then imposed by the Board:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. Approved for the keeping of no more than three (3) horses and one (1) pony with no other agricultural animals permitted.
3. Fenced-in area to be constructed and maintained.

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

7. The application of **Randall C. & Heather Kwilinski** for a Special Use for a home workshop/business for gunsmithing and sales of firearms (Specifications F - #45) on property located on the West side of SR 15, 1,600 ft. South of US 20, common address of 57273 SR 15 in Jefferson Township, zoned A-1, came on to be heard.

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

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #57273SR 15-120521-1*.

There were seven neighboring property owners notified of this request.

Randy Kwilinski, 57273 SR 15, Goshen, was present on behalf of this request. He indicated he is looking to take a hobby and offer it to the public. In order to obtain his federal firearms license, he has to obtain permission from the County. When asked if he was still operating his guttering business by Mr. Hesser, Mr. Kwilinski indicated yes. Mr. Homan asked if he could foresee a need or desire to have a shooting range. Mr. Kwilinski stated he has no desire for that as he has four children. Mrs. Wolgamood asked and Mr. Kwilinski indicated that there would be no guns discharged on the site other than for his own personal use. Mrs. Wolgamood asked about someone testing a gun prior to making a purchase. The petitioner said there will be no testing on his property and reiterated that it is basically a legal hobby as he doesn't have any more time for it. He stated he will have no signage and will get his business from referrals and internet/catalog sales. When Mr. Hesser inquired about security, Mr. Kwilinski indicated for a federal firearms license, you must have a secure location inside the building. He has a room upstairs above the office area that will have the required lock.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood feels this request is pretty straight forward. Mr. Miller indicated this request does not add any intensity to the location.

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

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. Approved for the retail sales and service of firearms only.
3. No additional signs on site.

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

8. The application of *Believer's Fellowship Inc.* for an Amendment to an existing Special Use for a church (Specifications F - #48) to allow for expansion of an existing facility for additional classroom, fellowship hall, and gym on property located on the West side of SR 13, 3,800 ft. South of CR 26, common address of 60781 SR 13 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 #60781SR 13-120521-1*.

There were eight neighboring property owners notified of this request.

Randy Myers, Interface Architecture, 57190 Alpha Drive, Goshen, was present on behalf of the petitioner. He stated the church would like to expand their existing facilities. In preparation, within the past couple of years, the church purchased an adjacent property to the west which is part of this petition. Mr. Myers indicated on a drawing the areas they are proposing to expand. He indicated the expansion is going to be completed in two phases with the immediate expansion being a larger worship area and classrooms. The State is reviewing that portion of the project at this time, and a foundation release has been issued.

The church is also relocating their mound system which has also already been approved by the Indiana State Department of Health and is in process or completed. Mr. Myers said retention for site drainage will be in a shallow basin to the west, and it will be addressed through swales surface drainage. A previous Special Use permit allowed for a dust proofing of a compacted gravel parking lot. They are proposing to expand that to the west with additional parking. The current addition will be 11,128 square feet.

The second phase of the project will be a multipurpose room which will be used primarily for recreation and fellowship. There will be no stage in it as it is not intended to be the worship area for any long term application.

There is existing screening for the small neighboring farm to the south which they are proposing to extend for the new parking. There is a wooded area to the north with a residence approximately 200-300 feet away and across SR 14, there are a couple of single family residences. The petitioner has spoken to all adjacent property owners and has received no negative input. Mrs. Wolgamood expressed some concern about the size of the existing evergreen trees and any new evergreen trees being planted as part of the expansion being noticeably different. Mr. Myers indicated the desired plan is to plant trees of the same height.

When asked by Mrs. Wolgamood when Phase 2, which is just under 7,000 square feet, will come into play, Mr. Myers indicated the church is a growing congregation and would like to complete the entire project in the next couple of years. Mr. Myers stated the request today is for both phases.

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 (*Campanello/Miller*) that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a church (Specifications F - #48) to allow for expansion of an existing facility for additional classroom, fellowship hall, and gym be approved with the following conditions imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. All required state and local permits to be obtained.

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

9. The application of ***Anthony D. Poole (Buyer) and Cornerstone Baptist Church of Elkhart, Inc. (Seller)*** for a Special Use for an agricultural use for the keeping of horses in an R-2 district (Specifications F - #1) on property located on the West side of SR 19, 1,730 ft. South of Sturdy Oaks Drive in Osolo Township, came on to be heard.

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

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #STURDY OAKS DRIVE-120521-1*.

There were 66 neighboring property owners notified of this request.

Sally Hernandez, Prudential One Realty, 1741 E. Bristol Street, Elkhart, was present on behalf of both buyer and seller. She stated this property has been listed for approximately one year. The request made by the buyer has been a request received frequently during the time she has had the property listed. She indicated it is very difficult to sell a parcel of 23 acres without permitting farm animals or for a single family residence with complete restrictions. She, along with the Cornerstone Baptist Church, feels that a two horse request is not unreasonable. They feel it is really consistent with the intent and best use of the property.

Ms. Hernandez believes the original intent when Sturdy Oaks was being developed was that it would be perhaps more subdivision. However, that was not feasible with the heavily wooded property and wetlands. She stated the church's original intent was to build a church on the property. However, over time they acquired an existing building at another location for the church. Now the property has set vacant for some time. The church and realtor feel that this should not cause any problems for the surrounding neighbors because the purchaser's intent is to build a home in the center of the property with a shelter and coral for two horses. The horses probably will not even be seen by the neighbors because of the heavily wooded lot.

Ms. Hernandez feels that a parcel like this sitting vacant and unused leads to potential for misuse by unknown persons hunting, playing on the property, and doing activities without the owner's knowledge. A private residence with two horses would be better for the surrounding neighbors in her opinion. It is both of the parties' and the realtor's opinion that this is not an unreasonable request.

Mr. Miller asked about possible entrance to the property being just past the last duplex on the south side of Sturdy Oaks Drive. Ms. Hernandez explained that there is a small strip to the property directly across from Fern Drive. Ms. Hernandez also clarified that there could be access off of SR 19 which might be more affordable to a prospective buyer. However, Mr. Poole would prefer the entrance being off of Sturdy Oaks Drive if possible.

Mr. Miller asked and Ms. Hernandez confirmed that the request is for only two horses. Mr. Homan stated he is unfamiliar with that area and asked if SR 19 has a center turn lane. Ms. Hernandez does not believe there is. Mrs. Wolgamood indicated she believes there is a center turn lane farther south on SR 19 near the curve but does not continue far enough north to be near this property. Mr. Hesser asked if a different site plan would be submitted if the entrance will be from SR 19. Ms. Hernandez stated the petitioner only wants to consider entrance off Sturdy Oaks Drive near Fern unless it is not possible to cross over the wetlands. Mrs. Wolgamood points out that any access off of SR 19 would have to be approved by the State.

Mr. Hesser indicated he was originally concerned about fencing just around perimeter of property but noted the site plan does show a fenced coral area. Ms. Hernandez reported the purchaser's intent is not to have the home or coral butted up against the neighboring property as he does not want to look at neighboring back yards anymore than neighbors want to look at his.

Mrs. Prough indicated to the Board that they could change #1 under commitment imposed to state "approved in accordance with the site plan submitted with access off Sturdy Oaks Drive or with a revised site plan submitted with access off of SR 19". Mrs. Prough stated she does not have a problem with a change of location for the home either as long as the developmental standards of the zoning ordinance are met. Ms. Hernandez pointed out this Special Use permit does not really deal with whether the buyer is allowed to build a home on the property and understands that County approval will have to be obtained for access and roads. Mrs. Prough explained that if a commitment is placed on the property, the site plan submitted does show the house. Upon further questioning by Ms. Hernandez, Mrs. Prough stated if there is a commitment placed on the property, if this sale falls through, any other buyer would have to place a house in the location shown on the site plan. She further indicated that the commitment would have to be voluntarily terminated if there is anything different on the property other than what the commitment and Special Use says. Mr. Kolbus suggested waiting until the property closing and recording the commitment simultaneously.

Lanetta Meredith, 51173 SR 19, Elkhart, was present in opposition of this request. She expressed concern that this is right behind her house. Mr. Kolbus gives Ms. Meredith a copy of a site plan. She stated her biggest concern is for the wildlife on that property, and she does not want that to change. She indicated that is her reason for living there. She said as long as the wildlife is not going to be disturbed, she does not have a problem. She indicated for approximately the past five years, she has been taking care of about 15 acres behind her house of the church's property to keep it clear for the animals. Ms. Meredith reiterated that she would like for the wildlife to not be disturbed.

Jack Coultas, 26196 Lakeview Drive, Elkhart, was present in opposition to this petition. He expressed concern about where the drive might be on SR 19 in relationship to Ms. Meredith's drive. Mr. Miller stated the drive is not currently shown on any site plans.

Andy Nesbit, 29635 CR 10, Elkhart, was present on behalf of Cornerstone Baptist Church. He stated the church understands the wildlife issue. He stated the wetlands have been the issue with this property. Mr. Nesbit said neither the Department of Natural Resources nor the Army Corps of Engineers will take responsibility for the boundary of the wetlands. The church tried to sell the property before, but no one wants to touch it because of the wetlands. Mr. Nesbit reported that Mr. Poole loves the nature and wildlife. That is what drew him to the property, and the price is amazing. He understands the concerns that have been voiced and noted that the church has been very generous and gracious in allowing neighbors to use part of the property for

personal use. However, the church is anxious to sell the property. This potential buyer loves the wetlands.

The public hearing was closed at this time.

Mr. Miller stated that given the context of the land, he thought the petition reflected a good use for the land. His only concern is granting latitude based on the site plan submitted. Mrs. Wolgamood indicated her approval for Mrs. Prough's recommendation of a revised site plan at the time permits are sought. That site plan could be placed in the file. She also likes the idea of the commitment not being recorded until after the closing of the property sale. Mr. Hesser noted that it is not approved until it is recorded. Mrs. Prough suggested that item #1 be revised to state "a revised site plan to be submitted to staff prior to issuance of building permits". If the area for horses is going to be limited, that should be indicated as well. Concerning the location of the horses Mr. Miller proposed the verbiage "the area for the keeping of the horses has to be stipulated on the site plan." He noted that the location may change, depending on which road is accessed.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Campanello*) that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of horses in an R-2 district (Specifications F - #1) be approved 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 for placement in the petition file.

The following commitments (as amended by the Board) were also imposed:

1. A revised site plan to be submitted to the staff for approval at the time the Improvement Location Permit is pulled with the specific area for the keeping of the horses to be delineated on the revised site plan.
2. The number of horses limited to two (2) with no other agricultural animals permitted.
3. All required state and local permits to be obtained.
4. Fenced-in area to be constructed and maintained.

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

10. The application of ***Daniel J. & Linda Mae Miller*** for a home workshop/business for a woodworking business (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 West side of CR 31, 351 ft. North of CR 22, being Lot 2 of Laura Ann Subdivision, common address of 59263 CR 31 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 #59263CR 31-120516-1*.

There were 14 neighboring property owners notified of this request.

Daniel Miller, 59263 CR 31, Goshen, was present on behalf of this request. He acknowledged that his approach is a little backwards, as he is currently conducting business from the building. Additionally, the size of the building exceeds the square footage of living space. In regards to the issue of square footage, Mr. Daniel Miller explained that the permit was pulled by

the contractor after the petitioner provided him with a drawing. At that point the square footage of the building was less than the square footage of living space. A permit was issued with the understanding that building would not immediately commence. Several months later the petitioner approached the builder with a second drawing. The builder explained that the square footage of the new building could not exceed that of living space. However, they failed to take into account that the square footage of accessory storage included his garage. With the inclusion of the square footage of the garage, the total square footage exceeds the limit by approximately 500 square feet.

Mr. Daniel Miller explained that he has a small woodworking operation with one employee currently. He would like to add an additional employee. He believes his request is consistent with the surrounding area businesses. He noted on aerial photos similar structures near him. He stated that he has spoken with and obtained signatures from neighbors with no objections.

Mr. Doug Miller asked the petitioner about the storage of the finished product. The petitioner confirmed that all storage is inside the building. He also noted that there is an existing circle drive which he plans to open up a bit more so that there is more room to turn around. He stated that there is ample road to enter and exit where the drive meets the road.

Mrs. Wolgamood asked if semi trucks enter or exit his property. The petitioner stated that he has trees on each side of the drive that would not allow adequate room for semi trucks. He noted that there were several nearby locations that he would use to rendezvous with a semi truck if need be. He said that he makes most deliveries himself, using one to two pick-up or box trucks per day.

Mr. Homan explained that under the definition of "home business/workshop" the petitioner is only allowed two employees. The petitioner acknowledged that he was aware of that stipulation. Mr. Homan sought clarification concerning retail sales. Mr. Miller explained that he makes furniture parts, but he does not assemble the parts or conduct outside sales.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Doug Miller expressed appreciation for the petitioner's honesty. Mrs. Wolgamood noted that while they did not ascertain how long the business had been in operation, it was no longer relevant.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Homan*) that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a home workshop/business for a woodworking business (Specifications F - #45) be approved with the following conditions 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 for placement in the petition file.
2. The existing driveway which will serve the business to be approved by the Elkhart County Highway Department within thirty (30) days.

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

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. No finishing or sealing of the product on site.

3. No signs.

The motion further reflects that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, 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 with the following conditions imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. No further construction of accessory structures on this property without approval of the Board of Zoning Appeals.

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

11. The application of **Kevin J. & Laverda K. Yoder** for a Special Use for a wind-pressor turbine & tower (Specifications F - #31.50), and for a 3 to 1 depth to width ratio Developmental Variance on property located on the West side of SR 13, 2,500 ft. South of CR 42, common address of 67483 SR 13 in Benton Township, zoned A-1, came on to be heard.

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

Mrs. Prough presented the Staff Report/Staff Analysis, which is attached for review as *Case #67483SR 13-120521-1*.

There were 10 neighboring property owners notified of this request.

Arlin Yoder, Wellspring R.E Power, 1085 N 850 W, Shipshewana was present on behalf of this request. He explained that they are seeking approval to install a wind-pressor turbine on an 80 foot tower. This would act as an air compressor driven by the wind, pumping air for the petitioner. The petitioner has an air water pump that will pump the water for his residence, as well as for several horses maintained on his property. Mrs. Wolgamood sought clarification concerning why an individual might want to pump air. Mr. Yoder explained that rather than using an electric pump, or a wind turbine that produces electricity, the petitioner prefers to use an air turbine. The petitioner has a few hand tools that he would like to power using the air turbine rather than an air compressor.

Craig Fritchley, 11926 Sandbrooke Drive, Millersburg, was present in opposition of this request. Mr. Fritchley stated that he resides in the subdivision located directly across from the petitioners' home. Using the aerial photo, he pointed out his home. He stated that he did not receive a notice because he lives more than 300 feet away from the petitioner. He expressed concern that he is going to see the proposed tower from his back yard. He wanted clarification about where the tower would be located. He noted that as a member of the Timber Ridge Golf Club, located directly to the west of the property, he was upset that the turbine will be easily seen from holes 5, 6 and 7. He feels that the turbine will change the landscape of the whole area. He noted that he is not entirely opposed but had a lot of questions. He was concerned that if an 80 foot tower with a turbine for an air compressor is allowed, other requests will be forthcoming for towers, possibly for generating electricity. He stated that he has done some research and is concerned about the noise associated with the proposed turbine. He believes it is a large project just to pump some air into a tank to run tools and a water pump as the source for water for their property.

Howard Wenger, 11944 Sandbrooke Drive, Millersburg, appeared in opposition to the petition. He is in agreement with Mr. Fritchley's position. He explained that he has trouble



speaking but shares concerns about the noise and disruption to the surrounding area, including the golf course.

Mr. Yoder acknowledged that there is some noise generated by the turbine. While there is no concealing the 80 foot tower, in the front of the turbine, the petitioner plans to plant some evergreens in front to block the view somewhat. Mr. Miller asked for clarification about the location of the tower in reference to the west property line. Mr. Yoder responded that he did not have the site plan with him but he thought the location met the minimum requirement. Mrs. Prough stated that the site plan indicates that the tower will be located 330' from the center line of the road, and 86' from the north property line. There is some noise and sight of it. She noted that the property is a total of 1356'. Mr. Homan noted that the Board has received a lot of requests for wind turbines that generate electricity that come with quite a bit of technical information, including information about sound. He noted that they have never seen, or approved, this type of equipment before. He inquired if there was more technical information, asking if it was something that someone made in their barn or if it was commercially produced. Mr. Yoder responded that an Amish gentleman in Kentucky makes the turbines, and has done so for the last five years. Mr. Yoder could not get a more detailed engineered layout for the tower. He stated that while the company that makes the towers does a great deal of metal fabricating and have gone through testing with the towers, he could not get any additional information. He relayed that the towers have gone through engineering and are designed for this turbine. Mr. Yoder said he could not speak to the issue of noise as he has not seen one in operation. He was told that it would not produce any more noise than a regular turbine.

Craig Fritchley, returned to the podium to provide information about noise, as it relates to wind turbines. He stated that a wind turbine would generate noise around 80-90 decibels, which is no greater than a busy commercial area. He believes that the entire Sandbrooke subdivision is going to be affected continually by the noise.

The public hearing was closed at this time.

Mr. Hesser questioned if the Board was comfortable proceeding with the limited information or if more information was needed. Mr. Homan stated that he would like to have more information. He wants to know what the impact will be on neighboring property, particularly the residential properties. He noted that OSHA requires hearing protection at 85 decibels, and he would like accurate information pertaining to the proposed equipment. Mr. Hesser asked Mr. Yoder if he could provide additional information. He noted it would be necessary to reopen the public hearing to receive additional information. Mrs. Wolgamood stated that a photo might be helpful, as she found the drawing confusing.

The Board examined said request, and after due consideration and deliberation, a motion was made by Mr. Hesser that this request for a Special Use for a wind-pressor turbine & tower (Specifications F - #31.50), and for a 3 to 1 depth to width ratio Developmental Variance, be tabled until the July 19, 2012, Board of Zoning Appeals meeting to allow the petitioner to submit additional information with respect to specifications for the tower and generator in particular; i.e. what it looks like, what noise it will generate, and other information regarding its impact.

After further discussion regarding the time period for submitting the additional information so it can be reviewed by the staff and be included in the packets for the July meeting, Mr. Hesser modified his motion to tabling the request until the August 16, 2012, Board of Zoning Appeals meeting with Mr. Fritchley and Mr. Wenger to be re-notified. The motion was seconded by Mr. Campanello and carried with a unanimous roll call vote.

Mr. Hesser then advised the petitioner that if the additional information can be submitted to the staff by July 10, 2012, the petition can be placed on the agenda for the July 19, 2012, Board of Zoning Appeals meeting with Mr. Fritchley and Mr. Wenger re-notified.

12. The application of ***Gerald L. Hart & Dorothy R. Hart, Co-Trustees, The Gerald L. Hart & Dorothy R. Hart Revocable Living Trust*** for a Use Variance for warehousing and storing of a semi-truck in an R-1 district, 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 Blaine Avenue, 90 ft. East of Pomona, being Lots 696, 697, and 698 of Sunset Park 1st Addition, common address of 30119 Blaine Avenue in Baugo 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 #30119BlaineAve-120314-1*.

There were 29 neighboring property owners notified of this request.

Gerald Hart, 30119 Blaine Avenue, Elkhart was present on behalf of this request. Mr. Hesser noted that the "Staff Analysis for the Special Use" should be Use Variance. Mrs. Prough explained that the request is, in essence, for a renewal of the Use Variance. Regarding the Developmental Variance, Mrs. Prough explained that nothing new is being proposed. She noted that there haven't been any complaints since the permit was granted. Mr. Homan asked why the request was originally granted for seven years. Mr. Hart explained that he anticipated retiring at 65, however, his retirement plans have changed. He feels great and doesn't plan on retiring yet. Mr. Homan asked if there was a DOT limitation for age. Mr. Hart responded that there is no age limitation as long as the DOT physical can be passed. Mr. Homan asked Mrs. Prough if it is possible to grant just for owner/occupant. Mr. Kolbus stated that they can grant request for owner/occupant or for a determined time limit.

Henry Quist, 29618 Wild Cherry Lane, owns the property located at 30161 Wolf Avenue. He asked if the request, if approved, will be a permanent situation. Mr. Hesser responded that the Board has the option of granting the request permanently or for a specific period of time. Mr. Quist stated that he would be concerned about other semis being on the property other than inside the barn. He stated that he has seen the truck outside the building.

Mr. Hart says the truck is occasionally parked outside of the barn when he cleans the barn. He stated that he does not leave the truck outside at night. He acknowledged that occasionally, a truck does sit outside. He noted that Mr. Quist would have to drive by his home to see the semi, as the barn completely blocks the view from his property.

The public hearing was closed at this time.

Mr. Hesser asked for comments on time limits regarding the requests. Mr. Homan said that while it is unlikely that the present Board would have passed this request, since it was previously approved the request is reasonable. He believes the petitioner has done a good job of keeping the truck in the building and minimizing the impact to the neighborhood. Mr. Homan suggested that the request be time limited and suggested a 5 year time period, at which time the Use Variance comes back for a renewal.

Mrs. Prough noted that the conditions under the Developmental Variance should have been listed as conditions for the Use Variance. Additionally, the conditions under the Use Variance should have been under the Developmental Variance on the Staff Reports.

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 and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance for warehousing and storing of a semi-truck in an R-1 district be approved with the following conditions imposed (as amended by the Board):

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. Approved for one (1) semi truck owned by the owner/occupant.
3. No outside storage or parking of the semi truck on the property.
4. The Use Variance limited to a period of five (5) years.

A motion was then made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, 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 with the following condition imposed:

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

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

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

14. There were no audience items.

15. The staff item for the Zoning Administrator Position was presented by Chris Godlewski. Mrs. Wolgamood voiced her appreciation for Mrs. Prough's contributions. Mr. Godlewski noted that it is a time of transition. He stated that he felt it was a natural transition to combine Mrs. Prough's position with the Planning Manager position held by Brian Mabry since May. He acknowledged that there would be a small learning curve for Code Enforcement, however, he believes Mr. Mabry has the credentials for the position. Mr. Godlewski asked the Board for concurrence with his proposal of merging two positions into one. The proposal is to also keep the Zoning Administrator's position open based on 6 month review or for interim. Interim means keeping options open, however, he does not anticipate a change in plans.

A motion was made and seconded (*Hesser/Homan*) to approve the request as presented by Mr. Godlewski.

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

16. The meeting was adjourned at 10:27 A.M.

Respectfully submitted,

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Deborah A. Britton, Recording Secretary

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Randy Hesser, Chairman

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Robert Homan, Secretary