

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20TH DAY OF MARCH 2014 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, Doug Miller. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Zoning Administrator; Duane Burrow, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Doug Miller, Tony Campanello, Meg Wolgamood, Randy Hesser, Lori Snyder.

2. A motion was made and seconded (*Wolgamood/Campanello*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 20th day of February 2014 be approved as read. Mrs. Wolgamood noted that Randy Hesser was incorrectly listed as Chairperson. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Wolgamood/Campanello*) that the legal advertisements, having been published on the 8th day of March 2014 in the Goshen News and on the 10th day of March 2014 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 (*Campanello/Wolgamood*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

5. The application of *Habitat for Humanity of Elkhart County Incorporated* for a 4,930 sq. ft. lot area Developmental Variance (Ordinance requires 20,000 sq. ft.) to allow for the construction of a residence on Proposed Parcel 1; and for an 11 ft. lot width Developmental Variance (Ordinance requires 100 ft.) and a 4,930 sq. ft. lot area Developmental Variance (Ordinance requires 20,000 sq. ft.) to allow for the construction of a residence on Proposed Parcel 2 located on the Southwest corner of State Line Road and CR 133, common address of 14018 State Line Road in York Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #14018State LineRd-140224-1*.

There were two neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th, Goshen, was present representing Habitat for Humanity. He noted Tom McArthur, Aaron Lehman, and Audrey Eash of Habitat were also present for the hearing as well as the families of Christina Chote and Wendy Potter who are the potential owners of these two residences. With over 21,000 sq. ft. for each house, he said Habitat thought they could meet the lot requirements for two on this parcel. He noted frontage on State Line Road and CR 133, and the County asked that right-of-way be donated which is over 13,000 sq. ft. or in this case or approximately 30% of the lot. With that right-of-way, the size of the parcel becomes a little over 30,000 sq. ft. or 15,000 sq. ft. per lot.

He reported there are two families who want to build their homes and live there and both have invested time working on the property. They want to be in the Middlebury school district so the children do not have to transfer schools, and they want to live in the country with the ability to have a garden. He also noted the site is centrally located from their families, being close to their schools, churches, and employment. Using the aerial photo, he pointed out the existing home has been demolished.

Mr. Pharis noted the property on east side of road has a hog barn in the process of demolition but it was undetermined whether the wind blew it down, age knocked it down, or it fell down. He indicated it has been that way since they started working on the project back in December of 2013 or January of 2014. He noted both east and west for approximately one mile on State Line Road, there are no houses on the south side of the road. He indicated there is a farm residence about a quarter of a mile south of this property. Mr. Pharis stated their first concern was whether they could fit two homes, two driveways, two septic field systems, two repair sites, a well, and keep all of the required separation and not be impacted by the previous abandoned well or septic tank with a finger going east and a finger going south. Using a large site plan on the easel (included in file), Mr. Pharis showed the site plan layout of the property that accomplishes all requirements. He said the 15,000 sq. ft. does meet the requirement is zoned R-1, but it does not meet the requirement for the A-1 zoning. He reported he met with staff to discuss this issue and questioned if it should be rezoned. Staff suggested attempting to obtain a Use Variance which seemed the most practical way to proceed to obtain approval so these families can build their homes. He noted the Staff Report was negative, but expected that as the staff cannot deny that the ordinance says 20,000 sq. ft. in an A-1 zone which they have to apply.

He explained that the gray area is what the Board can look at and discuss to help them come to a plan that is equitable to both the county and to their clients. Mr. Pharis pointed out that staff agrees that this request is not injurious to public but they did say it does have adverse affect on neighboring property. He reiterated that they are no homes that could be affected. The one house that could possibly have sight of this property is a quarter of a mile away with two tree rows that block the view from any other house to the south. He questioned any affect they could have on the neighbors and suggested the answer was the agricultural maintenance statement which they are going to include in their plat. He explained that in farming there is odor, dust, noise, and odd hours of work. By including the agricultural maintenance statement when preparing a plat, they are saying that they understand that this is an agricultural zone, these issues are going to be there, and they agree by deed not to remonstrate against the use of the neighboring properties and farming operations. When Mrs. Wolgamood inquired if that statement is automatically put on a minor subdivision, Mr. Pharis reported no but because they are platting this parcel which is in an agricultural zone which includes hog farms, they will include it to protect those farmers. He went on to say that in larger subdivisions in agricultural zones, it is a standard for Brads-Ko Engineering to protect the farmers. If denied, Mr. Pharis said the unnecessary hardship will be the affect it will have on one of the potential families because only one will be able to live there. In this case, if approved, the county will receive 13,000+ sq. ft. of right-of-way land at no cost, and both homes will be built at this site.

Regarding the plat, Mr. Miller inquired noted the Midwest energy 30 ft. wide electric easement shown that appears to be overhead power based on the drawing. Expressing his

concern, he questioned whether septic trenches are allowed in that easement, and Mr. Pharis indicated they are. Mrs. Wolgamood asked staff the rear setback requirement in an agricultural zone for a single family residence, and Mr. Burrow indicated it would be 10% of the lot depth with a minimum of 15 ft. and a maximum of 25 ft. Mr. Pharis noted they exceed the 25 ft. rear yard setback. Mrs. Wolgamood inquired about the setback of the rear yard of Lot 1, which Mr. Pharis pointed out on the large aerial photo. Mr. Pharis clarified that there will be separate septic systems for each of the two houses. The previous well has been capped and abandoned. He also pointed out the locations of the previous septic tank and field system. He said they avoided all previous and created new.

Larry Baker, 50927 CR 133, Bristol, was present. He stated he owns the surrounding property. He asked to be shown the two driveway locations. He noted he did not have anything negative to say about the request, but he suggested the placement of fencing during construction to keep trash and debris out of the pastures. He went on to say that he raises high dollar cattle, and one sandwich bag is a potential danger to a cow if ingested. He reported he has barbed wire and electric fencing around the entire pasture to keep his cows contained and noted concern about the possibility of any children getting into the field. He noted the odor from the two nearby hog farms, and Mr. Pharis's previous comments about the agricultural maintenance agreement although the farms are both across the state line. He noted that snow caved in the dilapidated hog barn on the East side of CR 133. He stated he rents out the land around the parcel which is farmed part of the year and the cows are turned out in the fields after the corn and beans are picked. He said from approximately April until November, the cows are up by the house.

Mr. Pharis reiterated that Mr. Baker would be protected by the agricultural maintenance statement so he could not be stopped from continuing his livelihood. He also reported that the construction manager for Habitat, Aaron Lehman, was present during the hearing. He assured that they will apply the erosion control plans necessary to contain all construction materials on site and said he was sure that Mr. Lehman will reiterate to any sub-contractors to keep all trash contained if and when these two homes are constructed. Mr. Pharis also commented that these families understand the issues of farming and hog barns, and this is where they want to live.

There were no remonstrators present.

The public hearing was closed at this time.

Ms. Snyder mentioned recalling a previous unrelated hearing not long ago where trash and debris blowing into nearby agricultural fields caused problems for neighbors and expressed concern related to Mr. Baker's adjoining fields. She noted her other concern was regarding the agricultural maintenance agreement and wanted to make sure both potential home owners understand they cannot come back and remonstrate about the nearby agricultural uses. While Mr. Hesser said he appreciates what they are trying to do, praised the organization, and does not agree with staff Finding #2, he stated he would have a hard time disagreeing with Finding #3. Mr. Campanello noted he feels the County right-of-way messes everything up for them. Mrs. Wolgamood mentioned Mr. Pharis's compelling argument about the dedication of additional right-of-way because that is the only reason they will not have the 20,000 sq. ft. of required lot area. Regarding State Line Road and CR 133, she said they are never going to be widened for major right-of-ways so the additional dedication to the County is going to be there and is not

going to change. She also noted the Agricultural Maintenance Agreement and cannot see that the Plan Commission would rezone this to R-1. Pointing out that Mr. Pharis made an excellent presentation, she stated she did not think they would get wells, septic, etc., but Mr. Pharis answered those questions for her, too.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Doug Miller, **Seconded by** Tony Campanello that the request for a 4,930 sq. ft. lot area Developmental Variance (Ordinance requires 20,000 sq. ft.) to allow for the construction of a residence on Proposed Parcel 1; and for an 11 ft. lot width Developmental Variance (Ordinance requires 100 ft.) and a 4,930 sq. ft. lot area Developmental Variance (Ordinance requires 20,000 sq. ft.) to allow for the construction of a residence on Proposed Parcel 2 be approved based on the following Findings and Conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare. Approval of the request enhances these aspects by contributing to housing affordability in the area.
2. Approval of the request will not cause substantial adverse affect on the neighboring property as it will be residential.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property. The county's right-of-way requirement is a major hurdle for this site to overcome.

The following condition was 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 imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application.
2. Erosion fencing to be placed along the west and south property lines of Parcel 2 and the south property line of Parcel 1 to keep trash and debris from getting onto neighbors' properties.
3. The Agricultural Maintenance Statement shall be included on any deeds transferring the Real Estate.

Vote: Motion passed (**summary:** Yes = 4, No = 1).

Yes: Tony Campanello, Meg Wolgamood, Lori Snyder, Doug Miller.

No: Randy Hesser.

**** It should be noted that Lori Snyder steps down and Robert Homan steps in.****

6. The application of **Blackjack Enterprises, LLC** for an amendment to an existing Special Use for warehousing and storing (Specifications F - #44) to add additional self-storage buildings on property located on the East side of CR 11, 1,100 ft. South of CR 6, common address of 53218 CR 11 in Osolo Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #53218CR 11-140211-1*.

There were 29 neighboring property owners notified of this request.

Brent Bontrager, 2318 Nature View Court, Goshen, was present representing this petition as the owner of Blackjack Enterprises. When Mr. Miller inquired if the request was basically to construct two additional buildings, Mr. Bontrager indicated yes. He added that technically they are only building one at this time but he said he was advised to include the request for the second building now. He went on to say their plan for this immediate time is to add the first 30'x100' building, and the time frame for second building is unknown. Mrs. Wolgamood noted she would like to see a corrected site plan. Mr. Miller noted the items parked on the south area of the parcel and questioned if that is the proposed location of the buildings. Mr. Bontrager stated that was correct and indicated the locations on the aerial. He indicated the outside storage of vehicles and RV's would be eliminated. Mr. Miller questioned if the east side of the proposed buildings will match up with the east side of the existing buildings. Mr. Bontrager said that was correct. Mr. Hesser further inquired about the vehicles stored outside on the property which Mr. Bontrager stated were some campers and some vehicles. Mr. Hesser questioned if they were allowed to be stored there. Mr. Bontrager said they have approval for outside storage which came about after Hurricane Katrina when they loaned the property for storage of FEMA units in approximately 2005 or 2006. He stated their use was amended for commercial transportation at that time. Looking at the previous history, Mr. Hesser said he does not see that and noted denial of a request for storage of commercial vehicles in 2005. Mr. Bontrager said he believed the wording was phrased, "for residential or individual use" or something of that nature. Mrs. Wolgamood said they could ask staff to pull the original site plan to see if it showed outside storage. She noted in the June 16, 2006, approval for the two additional self-storage buildings, the first item stated all previous conditions of this Special Use permit must remain in effect but those are not listed. She noted it is fairly typical of these facilities to have outdoor storage.

Mr. Mabry reported the 2005 site plan showed four front building structures, the parking area, the driveway, fencing, some concrete areas around the storage building, and a gate. He indicated no outdoor storage was shown on the site plan. The 2006 site plan shows a proposed Building #2 for the second large building to the south. Board members indicated wanting to see the original approval with the original conditions from March 2005. Mr. Mabry indicated the history in the Staff Report should be the conditions imposed. Mrs. Wolgamood indicated if she is reading it correctly, there were two conditions which Mr. Mabry read. Mrs. Wolgamood confirmed that the site plan showed no outdoor storage. She indicated that it would appear he is in violation. Although he indicated agreement, Mr. Bontrager felt certain somewhere in the paperwork it would show they were clearly approved for indoor and outdoor storage, but he does not have any documentation to prove that. He noted it has never been a great deal of outdoor storage, but they have always had it. He did say that the outdoor storage is irrelevant to them. Noting Mr. Bontrager's previous comment that the outdoor storage will be removed, Mr. Miller asked if Mr. Bontrager would agree to that as a condition. Mr. Bontrager noted that is not a perfect scenario. He said he would like verification. He added that if they have not been in compliance with what was approved, he has no problem getting rid of the outdoor storage. But he struggles with the fact that he is very confident that from 2005 that the property was approved

for indoor and outdoor storage. Additionally, he said he would just struggle with the fact that they have done it for nine years, and it is just being brought up at this time. Lastly, he noted the building is more important than the outdoor storage.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus said nothing was discussed in the minutes of the 2005 original approval regarding outside storage. He located notes in the file from Ann Prough of Code Enforcement who stated all FEMA units had been removed from the property and noted four cargo trailers on site belonging to a friend. She stated at that time that the property was in compliance with the conditions of the Special Use permit. Mr. Kolbus suggested the possibility of Mr. Bontrager's confusion coming from Mrs. Prough's comments at that time. Attorney Kolbus noted nothing official in the minutes or in the Board's decision talking about personal outside storage. Recalling the previous hearing, Mr. Homan stated he believed they were focused on the commercial holding area distribution aspect of the use of the property and never spoke directly to storage that would be considered as home owner or residential. He presumed that the Board did not think much about it at the time and noted that storage unit facilities generally have outdoor storage. Mr. Homan suggested it could be added to the site plan. Mr. Campanello pointed out trees along the property which could provide screening for the outdoor storage. Mr. Miller noted there were no remonstrators.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Doug Miller, **Seconded by** Robert 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 an amendment to an existing Special Use for warehousing and storing (Specifications F - #44) to add additional self-storage buildings 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.
2. A revised accurate site plan must be submitted for approval by staff with designated area for outside storage to be included.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted and as represented in the petitioner's application.
2. The Real Estate shall be used for private individual storage only.
3. There shall be no dispatching or storage of end products on the Real Estate for manufacturing businesses.

Vote: Motion passed (**summary:** Yes = 4, No = 1).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Doug Miller.

No: Randy Hesser.

7. The application of *Elias Ray & Judith Martin (lessors) and Phillip Martin (lessee)* for a Special Use for an agri-business for welding and repairs of farm machinery and equipment

(Specifications F - #56) on property located on the East side of CR 17, 550 ft. South of CR 44, common address of 68120 CR 17 in Jackson Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #68120CR 17-140224-2*.

There were five neighboring property owners notified of this request.

Loren Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioners. He noted the Special Use permit approved in 1988 but feels it should have been submitted and approved as agri-business originally when it was approved because that is what it has been since the beginning. The father, Elias Martin, has lived at this location and operated this business for those 26 years serving the farmers in the area as a machinery repair shop. He listed various kinds of equipment that they repair and maintain and noted no complaints from anyone in that area. He noted they do not do any engine or hydraulic work. As the business has grown in the past 26 years, he said they either need another building or to relocate, and Elias decided to relocate down the road ¼ mile to expand the business. Mr. Sloat noted the son, Phillip Martin, is now renting the subject property from his father and is residing on the property with the intention of purchasing the property. Elias wants to get more into providing an inventory of parts necessary to repair farm equipment. Mr. Sloat reported some retail sales in the past, noting the equipment parked near the road, which will all be relocated. The current location will be less intensely used because the business will be more inside than it is presently as a lot of these items will be relocated to the new business location. He said the son has come along and wants to take over the business and more room is needed so they decided to put up another business down the road at the father's new property as an agri-business with retail sales. Additionally, he noted there will be no retail sales at the old location. There will be no increase in traffic, noise, or dust. He noted everything will be substantially significantly the same as it has been including the same number of employees. He reported he concurs with the Staff Analysis. Requesting a show of hands from the audience, Mr. Sloat noted neighboring farmers are present who support the request. He asked for a show of hands from any remonstrators, and there were none.

Mr. Hesser inquired how long there have been more than two employees at this location. Mr. Sloat suggested it has probably been a long time.

Elias Martin, 22154 CR 142, was present on behalf of this request. In response to Mr. Hesser's question, he said he would estimate it has probably been 10+ years since they have had two employees. Mr. Hesser noted he did not see anything in the history dealing with the accessory buildings being larger than the home and questioned if that was addressed somewhere or if it has always been the case. Mr. Sloat said back in 1987 or 1988, they did not address that issue. When Mr. Hesser inquired about additional buildings being added since the original request, Mr. Sloat indicated on the aerial one that he believed was not part of the original request. Attorney Kolbus suggested there probably wasn't a limitation on the buildings back then as they weren't as tight on the conditions or tying things to site plans as they are now which is probably why it was issued and granted. Mrs. Wolgamood noted there has been a large amount of outside storage and display of items for sale on this site for quite some time. She questioned if all of the sales move to another location, how much of what is shown in the aerial photo and pictures goes away. While she recognizes that along with large equipment repair, some things are going to be outside, she said she would like to see an area designated on a site plan for that outside storage

because the current state of the site is unacceptable if there will be no sales there. There was further discussion about the outside storage. Mr. Campanello asked if any of the land is farmed, and Elias indicated a small area on the aerial. Mr. Campanello pointed out that on a farm, equipment can sit anywhere on the property. Mrs. Wolgamood said if they are leaving equipment outside on a farm, it relates to the farming, but this storage relates to Mr. Martin's business. Mr. Hesser agreed the outside storage area should be part of the site plan.

There were no remonstrators present.

Mr. Homan questioned whether the entire parcel is the agri-business or if it is within a defined space. Mr. Hesser reiterated that the site plan should be modified to show outside storage with approval by staff. Mrs. Wolgamood added staff could bring it back to the Board as a staff item if they do not feel comfortable with that.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Randy Hesser 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 agri-business for welding and repairs of farm machinery and equipment (Specifications F - #56) 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. A revised site plan must be submitted for approval by staff showing a designated outdoor storage area.

The following commitment was imposed:

1. Approved in accordance with a revised site plan to be submitted and approved by staff and as represented in the petitioner's application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

8. The application of *Elias Ray & Judith Martin* for a Special Use for an agri-business (Specifications F - #56) on property located on the Southwest corner of CR 142 and CR 17, common address of 22154 CR 142 in Union Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #22154CR 142-140224-1*. He noted a correction in the Staff Report that "DENIAL" should be struck from the staff recommendation where it says "APPROVAL/DENIAL". He also noted in Finding #1, it should read "will" be consistent.

There were 12 neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. 9th, Goshen, was present representing Elias Martin. He noted the Martins own this farm, and they are carving out a seven acre tract for a new building for this business which is a partial relocation of the business from the previous hearing. He said they are proposing a driveway off of CR 142 that services the building with no ingress/egress off of CR 17. Using an enlarged site plan, he described the site

including a designated area for outside display of products for sale and outside storage. He noted the positive Staff Report and neighbors present in support of the request.

When Mr. Hesser asked about a residence on the property, Mr. Pharis stated there is and the Martins reside there. Mr. Hesser questioned that it is not included on the site plan, and Mr. Pharis noted the request is for a designated 6.98 acre area of the 56.23 acre parcel but pointed out the residence and agricultural buildings on the site plan. Attorney Kolbus indicated there is a separate legal for that portion of the parcel included in the file. Mrs. Wolgamood asked how pieces of equipment are brought onto the property, and as most of the pieces are very large, Mr. Pharis indicated they will be towed in by truck or pick up. He reported there is adequate room for turn around on the property so they are not backing onto roadway. He added that it is possible that a semi-truck may deliver parts, but there is plenty of room.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Robert Homan that the Board adopt the amended 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 agri-business (Specifications F - #56) 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 commitment was imposed:

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

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

9. The application of *Ernest E. & Laverda M. Yoder, Trustees of The Yoder Family Revocable Living Trust of July 22, 2002* for a Special Use for a home workshop/business for bike repair and sales (Specifications F - #45) and 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 South side of CR 20, 1,000 ft. East of SR 13, common address of 12292 CR 20 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #12292CR 20-140224-1*.

There were eight neighboring property owners notified of this request.

David Bontrager, Jr., 59811 CR 37, Middlebury, was present representing the petitioner. He indicated originally the structure was a calf barn but no longer has calves. In the meantime, the structure was converted to personal storage, but now Mr. Yoder would like to have a bike shop. As shown on the site plan, Mr. Bontrager reported Mr. Yoder wants to add stone for additional parking area. When Mr. Homan asked if the bike shop is currently being operated at this location, Mr. Bontrager indicated that it is operating at a different location at this time by

Devon Bontrager who is selling out. Mr. Homan inquired about items for sale which were listed as bikes, tires, tubes, lights, and anything you would put on a bicycle which would be delivered by UPS and Fed Ex. He said Mr. Yoder's plan at this time is that half of the building will be for the bike shop but he just included the entire building. He reported the bike shop in its current location for its spring open house is approximately 20 new and 20 used bikes. He noted everything will be stored inside the building except possibly a bicycle left out for pick up after hours. When Mr. Homan inquired about CR 20, asking if it is flat or contoured in that area, Mr. Bontrager reported a slight slope to the west but nothing to affect any site view from the driveway. Mr. Homan noted the garage on the site plan and asked if it is personal storage, buggy storage, or if it will be overflow from the bike shop at all, Mr. Bontrager reported it will not be overflow for the bike shop as he has plenty of room in the proposed structure and small connected building.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan noted it is a big shop and indicated his only concern was truck delivery on the county road, but it does not seem to be a huge public safety issue.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these and the petitioner's testimony, further moved that this request for a Special Use for a home workshop/business for bike repair and sales (Specifications F - #45) and 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. 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 commitment was imposed:

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

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

10. The application of *PECF Enterprises, Inc. an Indiana Corporation* for a Special Use to allow for a wireless communications facility (Specifications F - #31.50), for a 15 ft. Developmental Variance to allow for the placement of a tower 10 ft. from the East side property line (Ordinance requires 25 ft.) and for a 15 ft. Developmental Variance to allow for said tower 10 ft. from the South rear property line (Ordinance requires 25 ft.) on property located on the South side of Beck Dr., at the South end of Chelsea Lane, 2,500 ft. East of CR 17, being Lot 1 of Beck Industrial Park Minor Sub No. 1, common address of 21520 Beck Drive in Jefferson Township, zoned M-2, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #21520BeckDr-140221-1*.

There were nine neighboring property owners notified of this request.

Gene Crusie of Maplenet Wireless, 4561 Pinecreek Road, Elkhart, was present on behalf of this petition. He submitted a new site plan *[attached to file as Petitioner Exhibit #1]* because they wanted to comply with the staff recommendation which is actually a much better location for them than the originally proposed location. With new contracts being obtained, an existing tower on the adjoining property which is for sale being maxed out, and needing to build fiber from CR 17 and Beck Drive to the existing tower, he said approval of this request would allow them to get fiber on Beck Drive, give those businesses in that park access to the fiber, and lock them into a long term lease with a solid company. With the new site plan, Mr. Crusie reported the Developmental Variance is no longer needed as the new location meets the setback requirements. He noted in exchange for building the new tower, they will remove the tower on the adjoining property.

Mr. Hesser questioned staff or Attorney Kolbus about the policy requirement that a tower be built so if it falls, it will not fall on someone else's property. Mr. Mabry stated it is part of the policy which is not part of the Zoning Ordinance so if they were to deviate from that, there would not be a need to request a variance for that type of setback. Attorney Kolbus further explained a lot of times that comes up where you have that going in on a lot that is unrelated, but this is related to the business on the property. He pointed out that it is a guideline but not a policy and can be waived if deemed fit. Staff apparently does not feel it is necessary in this case. When Mr. Homan asked about the existing tower nearby, Mr. Crusie stated it is 250 ft. away on property owned by the Shah family. He said they have a lease with that property that expired in December, which they have continued from month to month knowing this petition was coming up. He added that lease and tower will go away as soon as they get everything switched over. Mr. Homan asked if staff was okay with the new site plan as far as location of tower or if they have a recommendation at this point, and Mr. Mabry stated he does not perceive this as a problem.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Tony 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 to allow for a wireless communications facility (Specifications F - #31.50) 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 imposed:

1. Approved in accordance with the revised site plan submitted March 20, 2014, and as represented in the petitioner's application.
2. The old tower on the adjacent property at the former Custom Wood Products (21594 Beck Drive) to be removed after the new tower is completed.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Meg Wolgamood that the request for a 15 ft. Developmental Variance to allow for the placement of a tower 10 ft. from the East side property line (Ordinance requires 25 ft.) and for a 15 ft. Developmental Variance to allow for said tower 10 ft. from the South rear property line (Ordinance requires 25 ft.) be withdrawn as offered by the petitioner.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

11. The application of *Tri-County Land Trustee Corporation (land contract holder) and John A. & Sue J. Miller (land contract purchaser)* for a Special Use for a home workshop/business for equine supplies (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 South side of CR 18, 3/4 mile East of CR 43, common address of 10348 CR 18 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #10348CR 18-140224-1*.

There were four neighboring property owners notified of this request.

Harley Bontrager, 57342 CR 116, Middlebury, was present representing this petitioner as the builder. He stated when the property was purchased years ago, that building was a calf barn at that time. This started out as a hobby shop, doing pads, collars, and blankets for horses, and has become a full-time job. Since November of 2013, he does have one part-time employee, but does not anticipate adding many more employees. Mrs. Wolgamood asked for an explanation of equine supplies, which he listed as collars, pads, blankets, currying combs, but no food. When she further inquired about services other than sales, Mr. Bontrager said this is being done as a wholesale business and his delivery is all with either pick-up trucks or UPS straight trucks with a rare semi truck. He explained with the site plan, they tried to have a large enough circle so semi trucks could drive in, turn around, and drive straight out. She noted the mention of another driveway as a u-shaped drive but pointed out there are three driveways on the north side of the road there. Mr. Bontrager indicated traffic is very minimal, and it is a dirt road. Mrs. Wolgamood mentioned additional permitting would be required for a second curb cut/drive. Regarding type and quantity of inventory, Mr. Bontrager said it should all very easily fit in the building.

John Miller, 10348 CR 18, was present on behalf of this request. To further respond to Mrs. Wolgamood's question, he said the inventory consists of vinyl, cloth, and foam. He explained he can get better prices when buying in bulk, and foam takes up a lot of room. When she inquired about the number of sewing machines, Mr. Miller reported three. He reported his business is 90-95% wholesale, but he does have a retail license. Regarding employees, Mrs. Wolgamood asked if they include him and one other outside employee, to which Mr. Miller indicated himself as full-time and one other employee as part-time. She noted hours of operation being listed as five days per week, and Mr. Miller further clarified Monday through Friday from

6:00 a.m. to 3:30 p.m. are the hours. When Mrs. Wolgamood asked how long the business has been in operation there, he stated since 2006.

There were no remonstrators present.

Regarding retail sales, Mr. Bontrager added that Mr. Miller does not plan on having a showroom.

Mr. Homan noted the sign is 2'x3' instead of 2'x2' which is too large for the home workshop/business guidelines. Mr. Hesser asked if the sign could be modified to be within the 4 sq. ft. guideline, and it was indicated they would be willing to do so.

The public hearing was closed at this time.

After some discussion about the possibility of the second drive, Mrs. Wolgamood asked Mr. Bontrager if for any reason the extra curb cut is denied by the Highway Department, if there is adequate room for a semi truck to turn around on the property. He responded yes as they could make the big circle and exit out the same driveway.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Meg Wolgamood, **Seconded by** Tony 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 a home workshop/business for equine supplies (Specifications F - #45) 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 imposed:

1. Approved in accordance with the site plan submitted, as represented in the petitioner's application, and as presented to the Board of Zoning Appeals regarding creating a turnaround on site if the extra curb cut/driveway is denied by the Elkhart County Highway Department.
2. The size of the sign shall be limited to 4 sq. ft. per side.

The motion included also the approval of the Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure with the following condition imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 90 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the building permit (where required).

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

12. The application of *John A. & Sara Miller (life estate Melvin & Esther L. Miller)* for a Use Variance to allow for two existing dwellings and for the construction of a third dwelling and an accessory structure on a parcel on property located on the South side of CR 18, 1/4 Mile West

of CR 43, common address of 11232 CR 18 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #11232CR 18-140220-1*.

There were nine neighboring property owners notified of this request.

Harley Bontrager, 57342 CR 116, Middlebury, was present representing the petitioner in this request. He said the situation was explained pretty well as far as what got missed in 2006 and expressed the desire to get the property into compliance. He noted the petitioner does want to build the 40'x60' shop regardless of the decision on the Use Variance which he believes according to the square footage, they are allowed to do. There was some discussion about the accessory storage and square footage of primary structures. With the two residences together, if the existing one is approved, Mr. Mabry said there is quite a large amount of residential square footage (8,600) to work with as far as accessory structures. He believed staff worked that issue over and found that the accessory structure could be built without the need for a Developmental Variance for accessory to exceed primary given the second dwelling ends up being approved.

Regarding the proposed small living quarters of 440 sq. ft. in the accessory building for the petitioner's aunt, Mr. Bontrager explained the aunt, Ruby Miller, is 83 years old with vision problems, and the petitioner would like to get her close to the family so they can care for her. He added that after the aunt is gone, they have no plans to rent it out, and it will revert back to storage. Mr. Bontrager noted the second home on the property is the aunt's brother.

Mr. Homan inquired about who resides in the dawdy house, and Mr. Bontrager stated the petitioner's parents live there and the petitioner's father is a brother to his aunt, Ruby Miller.

John A. Miller, 11232 CR 18, Middlebury was also present on behalf of this request as the petitioner. He reiterated that his parents live in the dawdy house, and his father is Power of Attorney for Ruby Miller. He reported that this property is his aunt's and father's home place, and his aunt wants to be there. He said they considered moving Ruby in with his parents, but his parents think they are too old to have the full responsibility. By placing the living quarters between the two houses, they can help each other, and Ruby will still have her own space. When Mrs. Wolgamood asked Mr. Miller if he would have an issue converting the living quarters back to storage after his aunt no longer resides there, Mr. Miller said that is his intent.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller pointed out that it is all family members while Mr. Hesser said although he appreciates what they are trying to accomplish, it is not something that arises from a condition that is peculiar to the property. Mr. Campanello noted in the past, the Board has granted this type of request with a commitment for the living space to revert back to storage. Mrs. Wolgamood said they have done that with a second residence but in this case, there are already two residences and a third one would be stretching it. However, she pointed out that staff has already issued an Improvement Location Permit for the second dwelling, so required permits were obtained, and the residence would have been constructed to code. She questioned whether the Board needs to be hearing this request if they have already received approval from the staff. But now the staff is requesting the Board's decision on it, and she is going to accept the staff recommendation. Now all she is looking at is 440 sq. ft. of temporary living space in a shop.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Meg Wolgamood, **Seconded by** Robert 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 Use Variance to allow for two existing dwellings and for the construction of a third dwelling and an accessory structure on a parcel 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 imposed:

1. Approved in accordance with the site plan submitted and as represented in the petitioner's application. The proposed 440 sq. ft. living quarters in the proposed 40'x60' accessory is permitted on a temporary basis for the lifetime of Ruby Miller as long as she resides in the third living quarters and to be returned to accessory storage after that time.
2. Any future structures that are in compliance with the permitted uses and developmental standards of the Zoning Ordinance are permitted.

Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood.

No: Randy Hesser, Doug Miller.

13. The application of **Tom M. & Melissa A. Heintzberger (buyers) and Lamar J. & Jolee Wingard (sellers)** for a Use Variance to allow for the construction of an accessory structure without a residence, and for a 4 ft. Developmental Variance to allow for said accessory structure 46 ft. from the centerline of the right-of-way of Baugo Avenue (Ordinance requires 50 ft.) on property located on the Southeast corner of Baugo Avenue and Hoover Avenue, 750 ft. South of CR 22, being part of Lot 23 of Frederick's Baugo Creek Add., in Baugo Township, zoned R-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #000BAUGO AVENUE-140212-1*.

There were 13 neighboring property owners notified of this request.

Tom Heintzberger, 59218 Hoover Avenue, was present on behalf this petition. He explained that he wants to build a structure for residential storage on a section of Lot 23 in an area where no large, mature trees would need to be cut down. Referring to a statement by Mr. Heintzberger in the questionnaire, Mr. Hesser asked how the Use Variance will only be used by the current residents and how they propose to enforce that. Mr. Heintzberger said they have drawn up a purchase agreement with the current property owners who reside at 59304 Hoover Avenue for the portion of Lot 23. Mr. Hesser asked the petitioner or staff about the history of how and why the parcel was created. Mr. Heintzberger said it goes back to when the subdivision was created. He provided a copy of the subdivision plot plan which he submitted *[attached to file as Petitioner Exhibit #1]* and noted the current owner had four deemed lots in the subdivision according to the plot plan. He further explained they would be dividing Lot 23 in half. To further clarify the confusion about the subdivision lots being unbuildable, Mr. Mabry said at the time they were

platted and recorded in 1956, the lots met the rules. He clarified that the purpose of the Use Variance is for an accessory structure without a residence on that property. He noted there are rules on what is called a “non-conforming lot of record” like this, a platted lot that does not meet today’s rules. He went on to say a house could be built on this lot today under certain circumstances. If this were to be approved, Mr. Hesser clarified that if they sell their house, they would sell this property together with their property at 59218 Hoover or with the current owner’s residence. Mr. Heintzberger stated that is a term of the purchase agreement. Attorney Kolbus noted the purchase agreement is included in the file paperwork. Mr. Hesser inquired further about the intended use of the accessory building. Mr. Heintzberger said it will be additional garage storage as he has a two stall attached garage, but would like to have more.

Mrs. Wolgamood noted she wanted to clarify based on her study of the subdivision site plan. She indicated Mrs. Wingard’s house is on one lot of the original subdivision although she owns all four lots. She stated the location of the proposed structure is only a part of Lot #23. She believes when staff talks about this small piece not being large enough for a single family residence, while they are correct, it is not the entire lot, and she said she thinks the entire Lot 23 would be large enough for a single family residence. Mr. Mabry reported the Zoning Ordinance allows for the construction of a single family dwelling on a non-conforming lot of record if certain parts of the lot are within 60% of the current rules. Mr. Heintzberger said when he completed his research, it was his understanding was that the total lot undivided was 15,000 sq. ft. and the requirements were 20,000 sq. ft. according to today’s standards so the entire lot still does not meet the rules. Mrs. Wolgamood pointed out it would meet building requirements for an R-1 zone.

Jolie Wingard, 59304 Hoover Avenue, Elkhart, was present as the owner of the property. She stated when they purchased the lot, it was set up to sell as three or four separate lots, but they wanted a large yard. She said Mr. Heintzberger is more than welcome to purchase it and use it.

There were no remonstrators present.

The public hearing was closed at this time.

To his mind, Mr. Hesser said the “peculiar to the property” requirement is something that is completely self-created in this case and does not think it meets the requirements needed for a Use Variance. Mrs. Wolgamood expressed agreement.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Denied, Moved by Randy Hesser, Seconded by Meg Wolgamood that the Use Variance to allow for the construction of an accessory structure without a residence be denied based on the following Findings and Conclusions of the Board:

1. The request will not be injurious to the public health, safety, morals and general welfare of the community. The petitioner’s existing home site will not accommodate indoor storage without impacting future septic repairs on site.
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner provided the structure maintains a residential character.
3. A need for the Use Variance does not arise from a condition that is peculiar to the property involved.

4. Strict enforcement of the terms of the Zoning Ordinance would constitute an unnecessary hardship if applied to the property. The size of the proposed building site does not meet the requirements for a home site by today's standards.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

Further, a motion was made and seconded (*Hesser/Wolgamood*) that the request for a 4 ft. Developmental Variance to allow for said accessory structure 46 ft. from the centerline of the right-of-way of Baugo Avenue (Ordinance requires 50 ft.) be denied as being moot.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

14. The application of *David E. & Kathryn Miller* for a Use Variance for the construction and sale of buggies 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 South side of CR 34, 1,160 ft. East of CR 33, common address of 14782 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #14782CR 34-140224-1*.

There were 10 neighboring property owners notified of this request.

John Yoder, 10707 W 950 N, Ligonier, was present representing the petitioner in this request. He reported the business is in old structures that have been added on over the years, and they want a larger structure to set up the business more efficiently. They have buggy orders out 1 ½ years. If they relocate the business out by the road, Mr. Yoder explained that the business will not disturb the homestead as much. Regarding deliveries of parts, he said there will be adequate turnaround area. When Mr. Hesser questioned the reason for wanting to move into a new building, Mr. Yoder explained they want to increase the size and do not have room to do that. Additionally, they want to get the public away from the house more. With his sons growing up, they want to expand a little more. When Mr. Hesser inquired about the number of employees currently, Mr. Yoder indicated there are three full-time and two part-time employees. He stated they would like to add a full-time employee if they can. Trying to reconcile the site plan with the aerial photo, Mr. Homan asked about the large building west of the loop driveway. Mr. Yoder said his drawing is incorrect, and currently there are two smaller buildings there. When Mr. Homan further inquired about all of the buildings having to do with the business, Mr. Yoder noted there is a dawdy house and barn on a separate parcel with an easement for the drive. Mr. Yoder submitted a signed petition from neighbors *[attached to file as Petitioner Exhibit #1]*.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Wolgamood inquired if Mr. Yoder offered the future use of the current buildings occupied by the business. When questioned, Mr. Yoder indicated the buildings used on the aerial photo and said one building will remain parts storage because it is a low building. The

second building will become a family room/church house. If approved, Mr. Hesser asked for a revised site plan that shows the correct buildings and proposed building which Mr. Yoder indicated yes.

There was some discussion about the size and square footage of the proposed building because of confusion from the site plan. When Mr. Hesser asked for clarification, Mr. Yoder stated the proposed building is 70'x110' with a second story mezzanine or loft area which makes it close to 12,000 sq ft. Mr. Yoder submitted pictures of the building [attached to file as Petitioner Exhibit #2]. Mr. Mabry said from the best they can tell, it was legal non-conforming. From the presentation, Mr. Hesser noted the business itself is not expanding. It is being moved out where the public can see it more. While he has a number of questions about some of the findings, he is not sure about this particular use since it has been used for that for so long.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis, as amended by the Board, as the Findings and Conclusions of the Board:

1. The request will not be injurious to the public health, safety, morals and general welfare of the community. The buggy manufacturing and sales has taken place on the property for some time without any known problems.
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. There have been no Code Enforcement complaints on the business.
3. A need for the Use Variance does arise from a condition that is peculiar to the property involved based on the prior extensive use of the property.
4. Strict enforcement of the terms of the Zoning Ordinance would constitute an unnecessary hardship if applied to the property.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

and based upon these, further moved that this request for a Use Variance for the construction and sale of buggies 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. A revised site plan must be submitted for approval by staff showing accurate drawings of the existing buildings and the proposed building.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted and as represented in the petitioner's application.
2. Maximum sign square footage for the business is limited to 24" by 16".

Vote: Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0).

Yes: Robert Homan, Tony Campanello, Randy Hesser, Doug Miller.

No: Meg Wolgamood.

15. The application of *Juvenal Moreno* 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 North Park Avenue, 1,635 ft. East of CR 9, being Lots 174, 173, and the West 16 ft. of 172, common address of 25681 North Park Ave. in Osolo Township, zoned R-2, came on to be heard.

He reported this is a tabled request from November 2013 with the petitioner expressing a desire to revise his plans, and no progress has been made since that time with the revisions. He stated staff continues to recommend denial or dismissal of this request. Attorney Kolbus reported in the file materials there is a letter from staff that was sent to the petitioner as a reminder of today's hearing and stated that the application would be dismissed in his absence. Therefore, he would recommend dismissal rather than denial. It is noted the petitioner was not present today.

Motion: Action: Approve, **Moved by** Doug Miller, **Seconded by** Meg Wolgamood 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 dismissed without prejudice.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

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

17. Public Meeting Item: According to Mr. Mabry, he provided copies of the amendments to the Elkhart County Advisory Board of Zoning Appeals Rules of Procedure in the Board packets and via email. He noted there were some modifications that were not included in the email or copies in the packets. He noted the copy provided today is accurate. Attorney Kolbus stated at the last meeting, he and Brian discussed some changes that were made. If approved, members will be provided with a clean copy at the next meeting. When Mr. Hesser questioned that he thought there were more of them, Attorney Kolbus explained these were the ones that were in question, being inserts for Pages 2, 4, and 21 having to do with payment of members, requesting that a petition go to the full Board rather than Hearing Officer when it could have just gone before the Hearing Officer, and when someone is requesting a certain type of Developmental Variance that would require combining the deeds together for the properties to set the 90 day time limit. He said they often make that recommendation anyway but this would just have a standardized set of language. Concerning Page 2, 2.01E regarding payment for the Board members, Mr. Kolbus said he took the language out of 2.04A to make it consistent. When Mrs. Wolgamood questioned why "annually" was taken out, Attorney Kolbus said it is because they allow you to appoint them for specific cases as well as annually. He noted the budgeted amount this year is just for the annual appointment.

Motion: Action: Approve, **Moved by** Doug Miller, **Seconded by** Meg Wolgamood that the Board approve the amendments to the Elkhart County Advisory Board of Zoning Appeals Rules of Procedure.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

18. A staff item for Robert W. Burkholder – 00CR 23-130920-1 as a major/minor change was presented by Brian Mabry. He said a letter was received from David Myers, agent of owner, requesting a six month extension to obtain the Improvement Location Permit on a variance approved in October 2013 which required an ILP be taken out within 180 calendar days of approval. Verbally, Mr. Mabry was told that Mr. Myers believes he has a buyer for it, and six months will allow him enough time. Mr. Mabry reported there were no remonstrators at the hearing, and there was a positive staff recommendation. Mrs. Wolgamood noted the hearing was held before the Hearing Officer.

Motion: Action: Approve, **Moved by** Meg Wolgamood, **Seconded by** Doug Miller that the request by David Myers be considered a minor change.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Robert Homan, Tony Campanello, Meg Wolgamood, Randy Hesser, Doug Miller.

19. The meeting was adjourned at 11:37 a.m.

Respectfully submitted,

Deborah Britton, Recording Secretary

Doug Miller, Chairman

Tony Campanello, Secretary