

**MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 16<sup>TH</sup> DAY OF APRIL 2015 AT 8:30 A.M.**  
**MEETING ROOM - DEPARTMENT OF PUBLIC SERVICES BUILDING**  
**4230 ELKHART ROAD, GOSHEN, INDIANA**

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Jason Auvil, Zoning Administrator; Mark Kanney, Planner; Liz Gunden, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Robert Homan, Tony Campanello, Jennea Schirr, Randy Hesser.

**Absent:** Roger Miller.

2. A motion was made and seconded (*Homan/Campanello*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 19<sup>th</sup> day of March 2015 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Campanello/Homan*) 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.

4 The application of *Jorge H. & Teresa Pizana (land contract holders) and Claudia V. Granados (land contract purchaser)* for a Special Use for a mobile home on property located on the North side of CR 146, 1,300 ft. East of SR 13, common address of 11267 CR 146 in Benton Township, zoned A-1, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #11267CR 146-150316-2*.

There were three neighboring property owners notified of this request.

Claudia Granados, 502 James Place, Goshen, was present on behalf of this request. She reported they are purchasing the subject property on land contract. Ms. Granados stated they want to place a mobile home temporarily while building a new home there. When Mr. Campanello questioned the time frame for construction of the home, she suggested possibly in two years.

Adam Young, 11335 CR 146, was present in remonstrance. He reported he is the adjacent land owner west of the subject property, and they are currently in process of building a stick-built home approximately 3,000 sq. ft. in size. He went on to say that immediately west of him is his mother-in-law's 2,000 sq. ft. stick built home constructed approximately two years ago. He went on to point out another home being built on the Northeast corner of CR 146 and SR 13. With the development of this neighborhood community, he said they are interested in adding to the value of their properties by building very nice homes and attempting to maintain a nice looking neighborhood by what they are choosing. While he completely understands the petitioner's request and what they are attempting to do, he noted that generally mobile homes decrease in value and will negatively affect neighboring property.

Additionally, he noted that Mr. Pizana is still listed as the land contract holder and reported they have had several issues with him in the past. He expressed concern about the problematic history with Mr. Pizana. If something occurred unexpectedly causing the petitioner

to default on the loan, it would revert back to Mr. Pizana with the mobile home on the property. He said a mobile home does not fit with the other stick built homes in the neighborhood. When Mr. Campanello questioned if Mr. Young sold the tract of land to Mr. Pizana, Mr. Young reported that he did not. He went on to say that a large tract of land was split into four smaller parcels, and he purchased the middle two parcels while Mr. Pizana purchased the subject property.

When Mr. Hesser questioned the current use on the subject property, Mr. Yoder indicated Mr. Pizana had cattle on the property. At this time, he indicated the petitioners have goats, sheep, horses, and chickens in the barn and are working to farm the land to grow hay for the animals. Mr. Hesser asked Mr. Young's opinion of the time frame for constructing a new home on the property while living in the mobile home for two years. Mr. Young expressed concern about what may occur at the end of the two year period. Mr. Campanello suggested a commitment being placed on the approval that the new house be constructed and the mobile home removed at the end of two years. While he could see that, Mr. Young suggested that once it was placed there, it may become harder to get the mobile home removed from the property. He questioned if the petitioners would face consequences if they did not remove the mobile home at the end of the two year period. Attorney Kolbus added that they could appeal the Board's decision to remove the mobile home in two years. Mr. Young stated he would rather the petitioners wait until they have the funds to construct a stick built home.

Ms. Granados said they are looking at their best options. When she questioned placing a double-wide, Mr. Kanney said a double-wide or manufactured home on a permanent foundation would be considered a stick built home. She noted it would also be good for them if their property value is high.

***\*\*It should be noted that Roger Miller arrived during this hearing.\*\****

The public hearing was closed at this time.

Requesting clarification from staff, Mr. Homan asked if placing a mobile home on any A-1 property requires a Special Use which Mr. Kanney indicated is correct. Mr. Hesser mentioned a different variance would be required for placing a mobile home within 300 ft. of a residence. Mr. Campanello suggested possibly looking at a commitment. Mr. Hesser noted they have ability to grant the request for a period of time and bring it back for renewal. If approved, Mr. Homan asked Ms. Granados if it is their intention to add a septic system, driveway, and utilities, and she indicated yes. When Mr. Homan inquired if they already have a mobile home, Ms. Granados reported they do not already have one but would look to purchase one. Mr. Campanello said he is not against a two year commitment with conditions of septic and utilities. If approved, Ms. Schirr stated a time frame should be placed on it with it being brought back to the Board. On the conservative side, Mr. Homan said he does not know if they are making a problem or helping if they approve it. Ms. Schirr noted that a double wide does not necessarily help property value and would be permanent.

Regarding Finding #2 in the Staff Analysis, Mr. Hesser said he does not believe it will cause permanent if the mobile home is temporary with a time limit. He went on to say that it does serve the public convenience if this allows the petitioners to build a conforming house on that property within the next couple of years.

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 Special Use will be consistent with the spirit, purpose and intent of the Zoning Ordinance. Mobile homes are permitted by a Special Use Permit.
2. The Special Use if limited to two years will not cause substantial and permanent injury to the appropriate use of neighboring property.
3. The Special Use if granted for two years will substantially serve the public convenience and welfare;

and based upon these, further moved that this request for a Special Use for a mobile home 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.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 03/16/15) and as represented in the Special Use application.
2. Approved for a period of two years with the mobile home to be removed from the Real Estate at that time (April 2017).

**Vote:** Motion passed (**summary:** Yes = 3, No = 1, Abstain = 1).

**Yes:** Tony Campanello, Jennea Schirr, Randy Hesser.

**No:** Robert Homan.

**Abstain:** Roger Miller.

5. The application of *Jeffrey & Linda Hershberger (lessors) and Homestead Motocross, Inc. (lessee)* for a Special Use renewal for a moto cross track in an A-1 district on property located on the North side of CR 4, 3,700 ft. East of CR 35, in York Township, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #OCR 4-150304-1*.

There was one neighboring property owner notified of this request.

Jeff Hershberger, 311 Birdee Boulevard, Bristol, was present on behalf of this petition as the operator of Homestead Motocross requesting a five year renewal to maintain the existing motocross track. He went on to say they will maintain a dust controlled environment and the hours as previously approved. When Mr. Hesser inquired about the possibility of this renewal being overdue, Mr. Hershberger said the original approval was in 2013, and this is the first renewal. Mr. Hesser asked staff about any possible complaints, and staff indicated there have been none.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus suggested that conditions 2-10 should be listed as commitments if the request is approved.

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 the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use renewal for a moto cross track in an A-1 district by 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 (dated 3/4/15) and as represented in the Special Use application.
2. Approved for a period of five (5) years with renewal before the Board of Zoning Appeals.
3. Days and hours of operation to be seven (7) days per week 10:00 a.m. to 8:30 p.m.
4. The number of riders be limited to twenty (20) on the track at one time.
5. Port-a-johns to be provided on site.
6. Riding area and driveway access to be dust controlled.
7. All motorized off-road vehicles for riding to be transported to the designated parking area with no riding or operation of said off-road vehicles on the driveway access.
8. The existing sign permitted to remain on site.
9. Motocross track to be owner operated
10. There will be no sanctioned race events on the track.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

6. The application of *AMMF Trustee Corporation, Trustee for Amish Mutual Mortgage Fund, an Indiana Land Trust (land contract holder) and Eric L. & Joanna Kay Chupp (land contract purchasers)* for a Special Use for an agricultural use for the keeping of horses on a tract of land containing three acres or less on property located on the West side of CR 29, 504 ft. North of CR 56, common address of 72643 CR 29 in Benton Township, zoned A-1, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #72643CR 29-150312-1*.

There were seven neighboring property owners notified of this request.

Eric Chupp, 72643 CR 29, Syracuse, was present on behalf of this request. He said they want to construct an accessory building for this agricultural use and some personal storage. He went on to say the existing 28'x32' building would be removed, and the new building would be constructed in the same location. When Mr. Hesser questioned waste disposal, Mr. Chupp indicated he has a manure pile which he uses to fertilize his garden and pasture area which he pointed out on the aerial photo. He also said townspeople get manure from him for their gardens. When Mr. Homan questioned the size of the property, Mr. Chupp stated it is over 2.5 acres. He went on to say that he previously added a lean to the existing accessory structure for which he received a permit. As no one questioned the horses at that time, he said he did not realize there was an issue.

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 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 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 (dated 3/12/15) and as represented in the Special Use application.
2. No more than three horses allowed at any time.
3. No other agricultural animals are allowed on-site unless expressly permitted by the BZA.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

7. The application of *Living Stones Christian Fellowship Inc.* for an amendment to an existing Special Use site plan for a church to allow for an electric message board sign on property located on the Southeast corner of CR 4 and SR 13, common address of 11020 CR 4 in York Township, zoned A-1, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #11020CR 4-150316-1*.

There were six neighboring property owners notified of this request.

Brian Steffen of Premier Signs, 400 N. Main Street, Goshen, was present representing the petitioner and this request. He said the existing sign is showing some deterioration and some interior problems. As the current sign sits entirely in the right-of-way, they are not proposing to change it out but replace it in a new location set back from the right-of-way. The new structure will also include a message center which allows the church to communicate upcoming events and make announcements. He went on to say the proposed sign is slightly larger, being 40 sq. ft. instead of 32 sq. ft., and two feet taller than the existing sign. Mr. Campanello indicated it does not appear it will be a visual problem at the intersection.

Mr. Hesser questioned the reason this request is before the Board. Attorney Kolbus said the request is a major change to the site plan because of the size and location of the sign. Mr. Steffen reported the new sign location is back 13 ft. from the existing location. Mr. Miller commented that if the original sign was not causing a problem, the location of the new one shouldn't.

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** Roger 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 site plan for a church to allow for an electric message board sign 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 (dated 3/16/15) and as represented in the Special Use application.
2. The existing sign as shown on the site plan must be removed within 30 days of the placement of the new electronic message board.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

**\*\*Staff Item heard at this time. See Page 15\*\***

8. The application of **Kevin V. & Ruth Ann Miller** for a Special Use for a home workshop/business for wholesale of crafts and furniture 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 20, 2,400 ft. East of SR 13, common address of 12022 CR 20 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #12022CR 20-150316-1*.

There were 13 neighboring property owners notified of this request.

Paul Hochstetler of Freedom Builders, 54824 CR 33, Middlebury, was present representing the petitioner who is also present. Giving some history, Mr. Hochstetler reported the business, Superior Woodcraft, was started about 13 years ago by Willie Yoder who came to the board in 2002 with an identical request and a very similar size building on CR 43 in Millersburg. In 2010, he sold the business to Kevin and Ruth Ann Miller because of health issues.

Mr. Hochstetler explained the intent of the warehousing business is a place for local craftsmen to market their crafts and small furniture. The petitioner will take in the local-made products and distribute them across the nation. Mr. Hochstetler went on to say that it is a place for the small craft builder to be able to sell his product without each individual having to set up a shop. Regarding traffic, he stated it is not an intense business. There will be some semis, but Mr. Hochstetler indicated the proposed site plan has a turnaround area which is a 120 ft. circle. When board members questioned that size being large enough, Mr. Hochstetler reported he talked with two semi drivers and an excavator who all indicated 120 feet is plenty of room to turn around without backing in from or out onto the highway. Mr. Campanello agreed but noted the site plan is not drawn to scale.

When Mr. Homan questioned any furniture assembly, Mr. Hochstetler reported there is no finishing or manufacturing at this facility. He noted the request for the size is due to the nature of a warehousing business which is all about storage space.

Regarding the staff's support of a 40'x80' structure, Mr. Hochstetler said that is not going to work. He explained that Mr. Miller's business is moving from a 10,000 sq. ft. building with a lease that is expiring in May of 2016, and he is already concerned about the loss of 4,000 sq. ft. with the proposed 6,000 sq. ft. structure on the subject property. It was noted the new Zoning Ordinance allows 200% of the living space for accessory storage, and Mr. Hesser stated without a variance, the petitioner could build up to 4,800 sq. ft. Mr. Hochstetler said he did not believe Mr. Miller could go to 4,800 without a variance because the existing residence is 34'x40'. He went on to explain that originally his site plan included a future house to the west of their shop house, but staff recommended he remove it. When the future house is constructed, he pointed out that the difference in square footage will not be nearly as large in proportion. There was some discussion about how the business was run at the previous location.

Addressing the staff's finding that the proposed accessory building would be excessive in comparison to other residences in the neighborhood, he pointed out a building that is approximately 4,000 sq. ft. on the second property to the west and right next door is a 6,000 sq. ft. barn. On north side of the road and slightly to the west side, there is a property with two large out-buildings, being 4,800 sq. ft and 3,200 sq. ft. When Mr. Miller questioned if those were agricultural uses, Mr. Hochstetler indicated at least one building is considered commercial. He pointed to another commercial business two properties down that is in two buildings, with the larger one being 6,000 sq. ft. and the smaller one being 4,800 sq. ft. He went on to say this property also has an additional accessory building that is 3,200 sq. ft.

In the nearby M-1 zoned area but still comparing building size, he noted a 52,000 sq. ft. building. On the right edge of the aerial, Mr. Hochstetler noted several large farm buildings, with the largest being a poultry building that is 18,000 sq. ft. with 6,000 sq. ft. accessory and 4,000 sq. ft. agricultural buildings as well. He also mentioned a church to the far west off of aerial photo that is 5,500 sq. ft., an accessory storage building to the south that is 8,000 sq. ft., and to the east on the next road is another poultry operation that has a combined square footage of over 19,000. He said he does not believe it is accurate to say that the proposed building will be out of proportion in this neighborhood.

As the petitioner will not be able to move his business home with a 40'x80' building, Mr. Hochstetler said that to approve the Special Use but not the Developmental Variance is pointless to them. When Mr. Campanello asked if there were any roads off of CR 20 that feed into the industrial park or if it gets fed by another road, Mr. Hochstetler said he believes it is all fed off of SR 13 to the west.

Kevin Miller, 12022 CR 20, Middlebury, was present as the petitioner for this request. He said he does not feel this request will have a negative impact on neighboring properties as the distribution warehouse is not open to the public and will create minimal traffic. As there is no manufacturing in the business, he stated there will be no noise, dust, fumes, or trash to create problems. He noted the lease on the current location will end in June of 2016, and he searched for existing buildings locally with no success which led to this building proposal. Using the aerial photo, he pointed out neighboring property owners he talked to, surrounding his property, and reported no objections. If approved, Mr. Homan noted there would be no outside storage

allowed. Mr. Miller said they can probably do that. Currently, he said they do have a dumpster and a small mini-barn that he uses for after hours pick-up (possibly as late as 10 p.m.). He suggested he could put this shed at his residence.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello questioned staff about home workshops having a set time when they are required to close and not do business. Mr. Hesser pointed out that there are hours of operation which are set or approved by the Board. Attorney Kolbus reported there is nothing in the Ordinance. Mr. Campanello said he felt it would be odd to have a truck on the subject property at 10 p.m. He went on to say that it would not be odd if it were in an M-1 zone, but this is A-1. Mr. Miller pointed out that if the building were 3,200 sq. ft. as opposed to the proposed 6,000, it could be built. He questioned whether they could put a restriction on late night pick-up times. Mr. Hesser said because it is a home workshop, a restriction could be placed on the hours. Mr. Homan pointed out an issue in testimony because the questionnaire lists hours of operation as Monday through Friday 8 a.m. to 5 p.m. but truck traffic is undetermined. He mentioned the intention of a home workshop/business which is secondary to the residential use and questioned the point that it is no longer a home workshop.

When Mr. Homan questioned if the original business was located in a commercial or manufacturing zoned area, Mr. Hochstetler stated it was in an A-1 zone. Mr. Miller stated he felt this is a warehouse and distribution business and not necessarily a home workshop/business. Noting he understands the size concern, Mr. Hesser pointed out that there are still only two outside employees. He went on to say that Mr. Hochstetler did a nice job of pointing out the large agricultural buildings and manufacturing in the area which addresses the effect on the neighborhood. However, Mr. Hesser pointed out that the ordinance still treats agricultural buildings different than commercial or accessory buildings. He noted this is a going to be a large building and close to the road. While he does not have a problem with the home workshop aspect of the request, noting it is low impact; he indicated the size of the building is a bit of a hang-up. If approved, he expressed concern about the need for a revised site plan to scale and showing that semi can turn around on the property. He also said he felt this size request is pushing hard at the maximum size limit. When Mr. Homan inquired about the eave height, Mr. Hochstetler reported it is 10 ft. If the Developmental Variance is approved, Mr. Campanello stated he felt this is as big as the business can grow or it will have to go back to a commercial zoned building.

Mr. Homan noted there are no remonstrators, and the petitioner indicated he talked to neighbors. When Mr. Campanello noted concern with the hours of operation, Mr. Homan said operation outside of the hours listed is in violation of the Special Use.

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 for a home workshop/business for a wholesale of crafts and furniture, as portrayed in the questionnaire and today's testimony 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. Petitioner to submit a corrected and to-scale site plan that more accurately demonstrates the 120 ft. radius turn-around for semi-truck/trailer traffic.

The following commitments were imposed:

1. Approved in accordance with the revised site plan submitted (actual date of revised site plan to be inserted here) and as represented in the Special Use application.
2. No backing of semis onto CR 20.
3. Hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

**Motion: Action:** Approve, **Moved by** Robert Homan, **Seconded by** Roger Miller that the request for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure be approved 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 as there are similar sized buildings within a reasonable distance, this business has operated previously under a Special Use allowed by this board, and there are no remonstrators present today.
2. Approval of the request will not cause substantial adverse affect on the neighboring property as there are similar properties and there have been no objections by adjacent property owners who have been contacted by the petitioner.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property in that without the larger size accessory, this home workshop as defined today would not be able to function.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

9. The application of *Dallas L. & Karen M. Pletcher* for a Use Variance to allow for a food distribution service in an A-1 district on property located on the West side of CR 11, 1,200 ft. North of CR 30, common address of 61759 CR 11 in Harrison Township, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #61759CR 11-150313-1*.

There were five neighboring property owners notified of this request.

Dallas Pletcher, 61759 CR 11, Goshen, was present as the petitioner in this request. Speaking on his behalf was Charles Books, 51656 CR 3 North, Elkhart, who also helps with the food pantry operation along with several other people. He reported the food pantry has been in operation for 18 years and is a church outreach and community service. He went on to say that there are several people who come and pick up goods for churches and needy people in the church areas. He also reported there are people from the outside that come and pick up food. When Mr. Campanello asked if this is mostly canned and baked goods, Mr. Books reported some bread, canned, refrigerated, frozen, and dairy items. When Mr. Hesser inquired about

refrigeration, Mr. Books indicated there is a walk-in refrigerator/cooler inside the building and a walk-in freezer box on the front of the building. When Mr. Miller inquired about the major transportation of the business, Mr. Books reported drivers go out in the box truck to pick up food at different outlets/distribution sites and bring the food to the property. He explained much of the food is getting close to the expiration dates but is still useable.

When Mr. Homan inquired if Mr. Books felt they will be able to meet the requirements of the Environmental Health Department, Mr. Books said he feels that they can if they are given some time to complete them. When Mr. Miller inquired about the length of time at this location, Mr. Pletcher stated he moved into the food distribution service into the accessory building on the property in 2000, and prior to that, it was operated out of a church.

Sue Books, 51656 CR 3, North, Elkhart, was also present in support of this request. She reported that she takes care of passing out food on Fridays, and indicated another volunteer distributes food on Saturdays. As Mr. Pletcher is legally blind, she reported she reads for him and attempts to keep him up on things. She stated that they have done a lot of work but still have a lot to do.

Referring to the letter from Mr. Hoover of the Health Department, she said they have removed the clothing, shoes, and furniture from the site. Additionally, she said they removed many of the boxes with some more to be removed in the next day or so. The big steel shelving is completely gone as well. She requested more time to work with the requirements. She reported new windows and lights have been donated but need to be installed. When Mr. Homan inquired where things stand with the Health Department, Mrs. Books said she is of the understanding that they can operate and pass out food, and once they get Health Department approval then Planning will accept the zoning. She stated she would like to meet with the Health Department herself for further explanation for her own understanding of their requirements. When Mr. Homan asked about a time frame for completion of the requirements, Mrs. Books said she would like to have the good weather of summer and possibly the fall for completion. Mr. Homan noted if they approve the Use Variance, the conditions must be met. He further inquired if the food distribution service operates until those requirements are met or if it closes today. Mr. Hesser noted the Board has no control over the health issues but if the Board is not approving the request in the end, it does not matter. Mr. Hesser said he would like to know what issues are and requested a cursory explanation of the status.

Mike Hoover of the Environmental Health Department said several months ago, the department received an email complaint of this facility operating without a license. To their surprise, they discovered the business has been operating for 18 years. The matter became more complicated when they discovered that the property is not zoned properly, and the fact that they distribute also plays into the fact that they need approval from the Indiana State Department of Health. With the blessing of his superiors and the state, Mr. Hoover said they have been working with the petitioners trying to get them into compliance. He stated their goal is not to shut them down; however, they had some major challenges. Their first priority was to get the harborage cleaned up and get pest control in there and from that point, work to get them in compliance. As it is not properly zoned, the Health Department did not know if the Building Department would approve it and if the State would approve it, so they were working together to try to figure out a way to get this moving ahead. Five or six weeks ago, Mr. Hoover said he and the State met on-site and formulated the letter consolidating everything and explained it. He noted there are short-

term goals, and it slowly works up towards the structural issues. The letter is basically a synopsis of what they have to do to get licensed. He reported they have made application and were given paperwork for the state. By steps, he said they are working toward compliance and obtaining licensing. Mr. Hoover noted there are a lot of obstacles, but he is in support of getting the petitioners going. When Mr. Miller inquired about a possible time frame, Mr. Hoover said at this point, it is open ended.

Mr. Books added that they have removed almost all of the harborage and had an exterminator come out for the mice problem. He said they have not seen any since the harborage is gone.

Patty Britt, 607 E. Lincoln Street, Nappanee, was present in support of this request. She said Dallas has been doing the food distribution for 18+ years. She noted her concern about investing extra money into this project if the request is not going to be approved. She reported they are working on the clean-up. She said everything is donated. She noted Mr. Pletcher's limitations, and it is all volunteer work. She said they are doing the best they can to comply with the requirements. If approved, she stated they will work with the various departments and do what needs to be done.

Jeff Taylor, 25095 Country Way, Goshen, was present and noted he is generally supportive of ministries and organizations that speak to needs of the community. He questioned the requirements or limitations for outside storage.

Regarding outside storage, Mr. Books noted a freezer box off of a truck located in front of the building. He explained the freezer box actually opens up inside the building. Referring to the aerial photo, Figure 2 of the subject property, he indicated the shelving has been removed. He also noted a storage box off of a truck which stores miscellaneous items but not food and a box truck that is used for food pick-up. The tow motor seen in the photo is stored inside at night. Mr. Miller asked who picks up and delivers the food, and Mr. Books stated there are a couple of truck drivers, with one gentleman being present in the audience. Describing the truck, Mr. Books said it is a good-sized box truck with a lift on the back. He confirmed it is the truck pictured in the Figure 2 photo.

The public hearing was closed at this time.

Mr. Hesser inquired if a Use Variance can have a set time limit, and Attorney Kolbus indicated yes. Mr. Hesser went on to say that he has no objection to the request, but they obviously need time to obtain Health Department approval, although that is not an issue for the Board to deal with. He suggested the Board could grant the request for a period of time followed by a review or the Board could grant the petition provided they come into compliance with the Health Department in a certain period of time. Mr. Campanello felt the second option was preferable. Mr. Hesser further questioned if the request would be automatically revoked unless the Health Department determines they are compliance. Attorney Kolbus stated it could be worded as such. When Mr. Homan questioned if review would be by staff if a time limit is set, Attorney Kolbus said the petition would be brought back to the Board for review. Mr. Miller noted the box truck that is stored outside. Attorney Kolbus pointed out that the Board can control outside storage. Mr. Campanello said he does not have problem with the truck parked outside. Mr. Homan stated he feels the staff analysis is fine. Regarding a time limitation, he noted if the petitioner does not comply with the Health Department and State requirements, the operation will be shut down anyway so he is not sure the time makes a difference. Mr. Hesser

said that it does in the sense that if they are shut down and the Board has approved the request, someone could do something similar in the future on the subject without coming back to the Board. He went on to say that he does not have a problem with this request, but if this does not work out, he does not want to leave something hanging. Attorney Kolbus said they should include box truck parking to make it clear if the request is approved.

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 Use Variance to allow for a food distribution service in an A-1 district 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. All requirements exlaimed in the letter from Michael A. Hoover, Environmental Health Services Supervisor, sent on March 23, 2015, must be met.
3. All Building Department and Highway Department requirements must be met.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 3/13/15) and as represented in the Use Variance application.
2. Approval for a period of one year with renewal before the Elkhart County Board of Zoning Appeals.
3. Parking of a box truck for use by the food distribution service is permitted in the “parking area” designated on the site plan.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

10. The application of **Michael E. & Denise C. Murphy** for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the East side of CR 19, 1,575 ft. North of CR 38, in Elkhart Township, zoned A-1, came on to be heard.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #0000CR 19-150313-1*.

There were eight neighboring property owners notified of this request.

Michael Murphy, 64656 CR 19, was present on behalf of this request. Showing the house on the adjacent parcel to the north in the aerial photo, he said they want to construct a pole building on the vacant parcel. In other cases where the Board has approved similar requests, Mr. Hesser noted they have had provisions where the petitioner has offered to tie the two parcels together or a commitment to not sell the subject parcel separately without a home being built on it. He asked Mr. Murphy if he would be willing to make either of those commitments. After some clarification and discussion about possible future scenarios, Mr. Murphy agreed to commit to not to sell the parcel separately without a residence on it.

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** Roger Miller, **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 Use Variance to allow for the construction of an accessory structure without a residence 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 (dated 3/13/15) and as represented in the Use Variance application.
2. The Real Estate is not to be sold separately from the adjoining parcel to the north (current tax code #20-11-20-301-009.000-014) owned by the Grantor until such time as a primary residence is constructed on the Real Estate.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

11. The application of *Barry J. & Angie R. Taylor (buyers) and Slavic Church of Evangelical Christian-Baptist, Inc. (seller)* for a Special Use for an indoor/outdoor recreational rental facility, including single family residence on property located on at the Northeast curve of CR 23, 435 ft. West of SR 15, in Jefferson Township, zoned A-1, came on to be heard.

Mr. Miller noted this item was tabled from the March 19, 2015, hearing, and Mr. Hesser indicated the public hearing remains open.

Mr. Kanney presented the Staff Report/Staff Analysis, which is attached for review as *Case #000CR 23-150216-1*. He noted staff cannot find any record of a previous Special Use approval for a church.

Angie and Barry Taylor, 58439 Fillmore Court, Goshen, were both present on behalf of this request. Mr. Taylor reported that he talked to the preacher of the church who said they had approval to build a church and had very detailed information about the construction of the parking lot. Mr. Miller noted the hearing was previously tabled for additional information that was requested by the Board. Mrs. Taylor said her understanding is that the Board was satisfied with the proposal with the exception of additional items. She noted they submitted answers to the Board's questions the day after the previous hearing concerning noise, lighting, serving of alcohol, time of operation, security, rental areas, trash handling, proposed house and facility size, and type of gatherings accommodated.

When Mr. Miller questioned quantity of traffic, Mrs. Taylor said they do not anticipate much additional traffic during the week. Mr. Taylor reported an average of 72 vehicles per wedding. As far as deliveries and semi-traffic, he said there will be no large trucks as deliveries will be made in vans or cars. He went on to say the small amount of car traffic will only be at the time of the event. Mr. Hesser asked about possible delivery of tables and chairs which Mr. Taylor indicated they will have on-site for use in the facility. When Mr. Hesser inquired about the layout of the building, Mr. Taylor stated the northern part of the building will be the residence with the west and south sections being the rental facility. There is a courtyard in the center of the building that is open to the east. He noted the site plan has not changed since

previous submittal. Mr. Miller asked if staff was satisfied that all of the questions have been answered. Mr. Kanney said he believes they covered everything. Mr. Hesser noted an increasing demand for this type of facility, and the Board has previously approved some similar requests.

Dario Ruiz, 58772 Max Drive, Goshen, was present in support of this request. He stated he immigrated to the United States in 2005, and became a U.S. citizen in 2010. He reported he has worked in television and radio and has video experience. Knowing his skill and experience, Mr. Ruiz said the Taylors have offered him the position of in-house videographer for the wedding venue. He stated he would like the opportunity to expand his own business in this very competitive field, and asked the Board to approve this petition.

The Taylors noted a second person present in support had to leave due to time constraints.

There were no remonstrators present. Mr. Campanello noted there was one remonstrator at the previous hearing who is not present today. When Mr. Hesser inquired, Mr. Miller stated the concerns mentioned at the previous hearing were noise, lights, and traffic. Mr. Taylor reported that he has been in communication with that remonstrator since the previous hearing to provide information addressing those concerns so the remonstrator feels comfortable with the request.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **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 an indoor/outdoor recreational rental facility, including single family residence 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 (dated 2/16/15) and as represented in the Special Use application.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr, Randy Hesser.

12. An audience item was presented by Mark Kanney for Life Tabernacle Church – 20081711 which was a Special Use for a church complex approved 05/15/08 with no action since that time. He noted staff needs some clarification from the board on this item. He reported church members were present in the audience. Mr. Kanney went on to explain that they came to the Building Department yesterday to obtain a building permit for a maintenance/storage building on the subject property prior to construction of the church. The accessory building was not part of the previous site plan. Further, he reported the BZA file is not real clear as the plan was approved conceptually with an engineered site plan to be approved by staff in the future.

Attorney Kolbus noted the previous site plan consisted of a church with a parking lot and read Meg Wolgamood's comments from the previous hearing prior to the Board's approval. As

Mr. Kanney previously stated, Mr. Kolbus reiterated that there is not a lot of detail in the file but part of the previously approved motion was the requirement of a properly engineered site plan to be approved prior to any development. Being presented at this point in time, Mr. Kolbus stated they are not present as a public hearing. Mr. Hesser said he feels it does not sound consistent with the previous approval. It was the general consensus that this would be an amendment to the Special Use and the request would need to be submitted through the application process. Mr. Hesser pointed out the need for notification of neighboring property owners of any changes. Noting the approval was given in 2008, Mr. Miller questioned a possible time limitation. Mr. Kanney said there was no termination time placed on the previous approval.

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

14. A staff item for York Elementary School was presented by Liz Gunden to determine if the request is a major or minor change. She stated that York Elementary is going to add two parking areas to alleviate the stacking of cars out on the county road when dropping off and picking up students. She noted packets were provided to board members today and some information was provided in an email sent previously. She described the location of the parking areas on the site plan and noted John Heiliger reviewed and approved the drainage plan. Ms. Gunden reported the original Special Use for a school was approved in 1983.

Mr. Campanello said he does not feel the request is a major change. As far as land use is concerned, Mr. Homan agreed that the request does not change anything. He went on to say that operationally, it improves the function of the school. Mr. Miller noted it will also improve safety.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board approve the request as a minor change and as submitted.

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

**Yes:** Robert Homan, Tony Campanello, Roger Miller, Jennea Schirr.

**Abstain:** Randy Hesser.

15. Reminder of the American Planning Association (APA) free BZA board member training session on 10/07/15 from 4-6 p.m. at the Century Center in South Bend was made.

16. The meeting was adjourned at 11:10 am

Respectfully submitted,

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Deborah Britton, Recording Secretary

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Randy Hesser, Chairman

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Tony Campanello, Secretary