

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20TH DAY OF AUGUST 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; 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 16th day of July 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 *Thomas Gene & Marcia Ann Parcell* for a 4 ft. Developmental Variance to allow for the construction of an addition to an existing residence 6 ft. from the North side property line (Ordinance requires 10 ft.) on property located on the East side of Elkhart Road (CR 3), 204 ft. North of Orchard Park Drive, common address of 302 N. Elkhart Street in Olive Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #302NElkhartSt-150706-1*.

There were four neighboring property owners notified of this request.

Nate Kauffman of Kauffman Construction, 16206 CR 40, Goshen, was present on behalf of the petitioners. He noted that the Wakarusa Historical Society was interested in the existing detached garage and has already removed it from the property. He went on to say that the neighbors on both sides of them have done almost the exact same thing that the petitioners are requesting which is an addition to the house, including an attached garage. As the property is extremely long and narrow, they are very limited to what they can do from side to side. He explained they will be staying at the existing setbacks, and the house will just continue on back with the garage and family room addition. When questioned, Mr. Kauffman said he believed the house was built in the late 1920's. When Mr. Homan asked for clarification on the site plan, Mr. Kauffman indicated 65 ft. is the length of the addition, not the total length of house. He went on to say that he believed approximately 24 ft. of that is living space and the balance is garage. Additionally, he noted that the neighbors are in favor of the request as it increases their property values, although he did not obtain signatures.

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** 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 4 ft. Developmental Variance to allow for the construction of an addition to an existing residence 6 ft. from the North side property line (Ordinance requires 10 ft.) be approved based on the following conditions:

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).
2. Approved in accordance with the site plan submitted (dated 7/6/15) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

5. The application of *John & Kesha Eicher (buyers) and Robert E. & Kathy R. Burris (sellers)* for an amendment to an existing Special Use for a beauty shop to include one nail technician on property located on the South side of Sunnyside Ave., 350 ft. East of CR 45, being Lot 1 of Laird's Happy Acres, common address of 24002 Sunnyside Ave. in Concord Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #24002SunnysideAve-150713-1*.

There were 26 neighboring property owners notified of this request.

John & Kesha Eicher, 23611 CR 18, Elkhart, were present on behalf of this request. Mr. Eicher stated they would like to purchase the property and, in addition to the current salon space, they would like to use one of the connecting rooms as a nail room as well. When Mr. Hesser questioned if this is used as a residence as well, Mr. Eicher reported it is. Mr. Hesser further inquired if they were the operators at this time. Mr. Eicher stated Kathy Burris, current owner, was also present, and purchase of the property depends on the outcome of this request. When Mr. Hesser asked if the Eichers would be living in the residence as well, Mr. Eicher reported they will be renting the residence. When questioned, Mr. Eicher reported his wife and her sister will be working in the business, and that sister will be renting the residence.

Kathy Burris, 24002 Sunnyside, was present as the current owner/operator of the property. She reported she has resided at the subject property for 26 years and has been operating the salon there for 21 years. She went on to say it has been ideal and reported no issues.

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** Randy Hesser, **Seconded by** Jennea Schirr that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use for a beauty shop to include one nail technician 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 7/13/15) and as represented in the Special Use amendment application.
2. The nail technician may be a non-occupant employee.
3. Maintain six parking spaces.
4. Hours of operation to be: Tuesday and Thursday 9:00 am – 7:00 pm, Friday 9:00 am – 4:00 pm, Saturday 9:00 am – 3:00 pm, and/or special appointments.
5. One non-illuminated 4 sq. ft. sign permitted.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

6. The application of *Larry & Carolyn King* for a Special Use for a home workshop/business for a dent and bent and surplus store on property located on the North side of SR 120 at the North end of CR 43, common address of 10871 SR 120 in York Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #10871SR 120-150713-1*.

There were six neighboring property owners notified of this request.

Carolyn King, 10871 SR 120, Middlebury, was present on behalf of this petition. She reported they would like to have a dent & bent store and a surplus store with the main reason for the request being that her husband has Muscular Dystrophy, and this would be an income for them as well as provide a service to the community.

There was discussion about the size and square footage of the proposed structure to be used for the business and the size of the residence. When Mrs. King noted the home is two stories, Mr. Homan questioned if the second story as living space which would change calculations. Mr. Auvil said he was not sure staff knew the home was a two story structure.

When Mr. Campanello asked who they felt their primary customers would be, Mrs. King reported factory traffic passing through, neighbors, and the community. Mr. Hesser noted they are within approximately a half mile proximity to intersection of SR 13 and SR 120. Referring to the site plan, Mr. Hesser noted four parking spaces Southeast of the proposed store building and some to the Southwest as well, noting the handicapped spaces. Mr. Homan pointed out that the application indicates seven spaces. Mr. Campanello questioned that the Ordinance requires 19 spaces according to the square footage. When Mr. Auvil indicated that the requirement is one space per every 200 sq. ft. of retail space, there was discussion about the actual square footage of the building that will be used for the store. Mr. Campanello asked if they were going to use the loft as the store. Mrs. King said they had planned to use the second story but do not have to. She further reported they will probably use either the main floor or the second floor, not both. If they use the upstairs for the store, she said the downstairs will be used for buggies and personal storage. Additionally, if the store is on the main floor, she said they could have additional parking in the rear of the building. When Mr. Campanello questioned the terrain around the building, Mrs. King reported they will have to do quite a bit of excavation in the front but less

excavation would be needed in back. Mr. Hesser noted there appears to be plenty of room so that there is no backing on the roadway. When Mr. Campanello questioned the possibility of semi-truck traffic to and from the property, Mrs. King said they do not want to have any but she was not sure. Mr. Campanello mentioned the necessity of room for a truck turnaround, and she said they could move fences in the rear to make turnaround room. Mr. Campanello suggested they would need a new site plan showing the turnaround and the additional parking area as well. Referring to the site plan, Mr. Homan asked about the shaded area in the front of the building between the parking spaces. She said it is the existing dock area, and they are considering filling that in and making it parking spaces. When Mr. Homan questioned possible signage, Mr. Campanello noted there is an existing sign frame in the photo shown on the screen. Mr. Homan noted it is in the right-of-way, and the Board would need to address that if the request is to be approved.

There were no remonstrators present.

The public hearing was closed at this time.

With the calculation of the second floor, Mr. Auvil reported they would be under the 200% accessory storage limit. Since that is the case, Mr. Campanello asked staff their feeling about the request. Mr. Auvil noted it is still bringing commercial activity out but it fits into a home workshop/business as the petitioners live on site. He went on to say that staff would need to know the amount of square footage being used for the store, and which floor is being used. He indicated the staff's main concern with the request was that the amount of accessory space was making the subject property more commercial than residential. Mr. Campanello disagreed noting approved home workshop/businesses that have large buildings for storage.

When Mr. Auvil noted traffic being generated by this operation, Mr. Hesser stated these types of stores do not do the business of Martin's Supermarkets and will not substantially increase traffic. Referring to a home workshop/business on SR 19, Mr. Campanello stated it is the same type of a situation, being on a state road in the middle of farmland, and it is serving the public because there are no stores nearby. Although he has not been past that location during the day, Mr. Hesser reported the times he has driven past there is not a lot of traffic and parking. He mentioned Yup's is near the subject property which is very busy and has a lot of traffic during the summer. Mr. Campanello stated he felt this request would serve the public convenience. While inclined to go with home workshop, there are many unanswered questions he would like the petitioner to address such as the amount of square footage that is going to be used for the business, a designated turnaround on the site plan, whether or not they are may or may not fill the dock, and the issue of the sign being in the right-of-way. As such, Mr. Homan said he feels the Board is not ready to proceed with this request. Mr. Campanello agreed that he would like to see a revised site plan and have the petition come back with more information.

Regarding the mention of buggy storage, Mr. Campanello asked the petitioner where the horse is kept. Mrs. King reported they have a separate building for it. He pointed out to Mrs. King that the more square footage they use for the business, the more parking spaces that are required. Regarding the truck turnaround, Mr. Homan noted it is even more important in this request because the subject property is on a state highway. Mr. Hesser also gave the option of stating no semi-truck traffic allowed on the subject property.

According to the Assessor, Mr. Auvil noted that the house is 2,047 sq. ft. and if the business uses all of the building square footage at 4,368, they would be slightly over. When Mr.

Hesser questioned the need for a developmental variance if the plan is to use more than twice the square footage of the home, Mr. Auvil indicated that issue is addressed with the Special Use as a home workshop/business because the developmental standards can be varied with the approval.

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

Motion: Action: Table, **Moved by** Tony Campanello, **Seconded by** Randy Hesser that this request for a Special Use for a home workshop/business for a dent and bent and surplus store be tabled until the September 17, 2015, Elkhart County Advisory Board of Zoning Appeals meeting for a revised site plan with additional information showing their true intent such as square footage used for the business in the accessory building, required parking spaces, semi-truck turn around if applicable, and size and location of the sign.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

7. The application of *Lisa K. Garner (buyer) and Bryan & Paige Palmer (sellers)* for a Special Use for a home workshop/business for a dog grooming business on property located on the West side of CR 113 (Graydale Road), 445 ft. South of Martin Avenue, common address of 59781 County Road 113 in Concord Township, zoned R-1, came on to be heard.

There were 26 neighboring property owners notified of this request.

Mr. Auvil submitted a withdrawal letter from the petitioner, Lisa Garner [attached to file as Staff Exhibit #1].

There were no remonstrators present.

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

Motion: Action: Withdraw, **Moved by** Tony Campanello, **Seconded by** Robert Homan that the Board accept the request to withdraw this request for a Special Use for a home workshop/business for a dog grooming business.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

8. The application of *Douglas L. & Sharon R. Delagrange* for an amendment to an existing Special Use for warehousing and storing of a commercial vehicle (concession trailer) to allow the concession trailer to be parked outside and to allow food storage within an existing detached garage on property located on the 650 ft. South off of CR 126, 3,400 ft. West of CR 19, common address of 21144-2 CR 126 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #21144-2CR 126-150713-1*.

There were 11 neighboring property owners notified of this request.

Sharon Delagrange, 21144-2 CR 126, was present on behalf of this request. She explained they want the Special Use permit for their concession trailer which would save them money in the long run. She went on to explain that nothing is going to change on the outside at the subject property. When Mr. Campanello questioned the types of concessions they do, she reported they usually work at auctions and sell hot dogs, sloppy joes, nachos, ice cream, and pop.

He asked about any contact with their neighbors, and Mrs. Delagrance reported they just got new neighbors beside them but the neighbors across the drive are already aware of it.

When Mr. Homan questioned the difference between the previous approval and this request, Mrs. Delagrance said their original plan was to construct a building which never occurred. Additionally, she reported the trailer has always been stored outside.

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** Jennea Schirr, **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 an amendment to an existing Special Use for warehousing and storing of a commercial vehicle (concession trailer) to allow the concession trailer to be parked outside and to allow food storage within an existing detached garage 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 7/13/15) and as represented in the Special Use amendment application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

9. The application of *Lester Shirk & Margaret Shirk, H & W as to an undiv. 1/2 int., and Leland M. Shirk, an undiv. 1/2 int.* for a Special Use for an agricultural use for the keeping of horses on a tract of land containing less than three acres (Section 5.3.28) 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 East side of CR 15, 2,230 ft. South of CR 32, common address of 63424 CR 15 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #63424CR 15-150710-1*.

There were five neighboring property owners notified of this request.

Lester Shirk, 63329 CR 15, Goshen, was present on behalf of this request. He explained they would like to construct a building for horse and buggy storage which is their transportation.

Mr. Campanello questioned staff about the limitation to three horses. Attorney Kolbus suggested that the reason was that the request was two to three horses. When Mr. Hesser questioned waste disposal, Mr. Shirk said they would haul it over to their farmland which is west of the subject property (shown on aerial). When asked, Mr. Shirk said he agreed with the recommended conditions/commitments.

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** Jennea Schirr, **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 less than three acres (Section 5.3.28) 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 7/10/15) and as represented in the Special Use application.
2. The agricultural use is limited to three adult horses and the proposed horse shelter.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

Motion: Action: Approve, **Moved by** Jennea Schirr, **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 Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure be approved with the following conditions imposed:

1. 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).
2. Approved in accordance with the site plan submitted (dated 7/10/15) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

*****It should be noted that Mr. Hesser recuses himself and steps down*****

10. The application of *Missionary Church North Central District Inc.* for an amendment to an existing Special Use for a church to allow for the placement of an electronic message board and a Developmental Variance to allow for the placement of said electronic message board within 300 ft. of a residence on property located on the Southwest corner of Old CR 17 and CR 18, common address of 57595 Old County Road 17 in Concord Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #57595 Old County 17-150713-1 Road 17*.

There were 14 neighboring property owners notified of this request.

Scott Carrington of Premier Signs, 400 N. Main St, Goshen, was present representing the petitioners on behalf of this request. He reported there is an existing sign on the corner of CR 17 and CR 18 with brick pillars on the ends, and they will be removing the cabinet and installing the

new electronic sign. He noted that the sign shown in Figure 2 is a different sign on Old CR 17. He indicated the proposed sign is 280 ft. from closest residence which is 20 feet short of the meeting the requirement. When Mr. Campanello inquired, Mr. Carrington reported that the new sign will be six inches taller than the existing sign which would accommodate the larger of the two options that the church is considering at this time. He believes they are going with the four ft. option instead of the five ft. option that he submitted. Mr. Campanello questioned line of sight at the intersection. Mr. Carrington reported that the sign is not in the visual triangle of the corner. When Mr. Homan asked about the sign being lit all night, Mr. Carrington said the sign automatically adjusts for night and day.

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** Jennea Schirr that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use for a church to allow for the placement of an electronic message board 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 7/13/15) and as represented in the Special Use amendment application.

Vote: Motion passed (**summary:** Yes = 3).

Yes: Robert Homan, Tony Campanello, Jennea Schirr.

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Jennea Schirr 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 Developmental Variance to allow for the placement of said electronic message board within 300 ft. of a residence be approved with the following conditions 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).
2. Approved in accordance with the site plan submitted (dated 7/13/15) and as represented in the Developmental Variance application.

Vote: Motion passed (**summary:** Yes = 3).

Yes: Robert Homan, Tony Campanello, Jennea Schirr.

*****It should be noted that Mr. Hesser returns at this time.*****

11. The application of *Jason & Amanda Demien* for a Special Use for a home workshop/business to allow for instruction of wrestling & baseball/softball hitting in an A-1 district and a Developmental Variance to allow for the placement of a sign 32 ft. from centerline of the right-of-way on property located on the West side of CR 15, 1,000 ft. North of CR 30, common address of 61809 CR 15 in Harrison Township, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #61809CR 15-150706-2*.

There were 11 neighboring property owners notified of this request.

Jason Demien, 61809 CR 15, Goshen, was present on behalf of this request. He explained they would like the opportunity to use their pole barn to conduct wrestling and softball lessons. When Mr. Homan questioned the avenue of seeking students, Mr. Demien suggested it would be by word of mouth. He added that he is a teacher at Northwood Middle School, and they are just talking about small group classes of three or four kids. Regarding the batting cages noted in the questionnaire, Mr. Homan questioned if this will be similar to other facilities where they advertise and are open to the public. Mr. Demien stated this will be more one-on-one stuff and not a large group. Regarding the batting cage, he said there would be one person in it hitting the ball. Regarding a pitching lesson, he reported that would involve just a pitcher and a catcher. He said they are just looking to do a small business. Mr. Homan questioned if the intent of the sign is to attract the public passing by. Mr. Demien said that is not what he is looking for with this business. He went on to say that they would not really want someone driving up to the house without having previous contact with the person. Because the property sits back from the road, he explained the idea for the sign is just to identify the location. Mr. Campanello questioned if a 2'x2' sign at the proper set back would be sufficient, Mr. Demien said it would not be visible at the required setback which he believed was 120 ft. Mr. Homan confirmed that the proper set back from a county road is 75 ft. Regarding the affect of the sign on adjoining neighbors, Mr. Homan asked if he had spoken with neighbor to the south. While he has not talked to them about it, he said he is not sure they would really care. He mentioned the neighbors in that area all keep to themselves. Mr. Campanello questioned hours of business. Mr. Demien said this business would be more in the off-season and when they are not teaching.

Elton Yazel, 61137 CR 13, with present with his mother, Mary Tyson, 61855 CR 15, in remonstrance to this request. She reported the whole west end of her property touches the subject property which she pointed out on the aerial photo. She went on to say that she has three acres and has lived there 20 years. She noted she already has problems with the petitioners riding a four wheeler on her property. While she did not believe the sign would be visible from her property, she said she is afraid of noise pollution, traffic, and future growth and intensity of the business.

In response, Mr. Demien said in terms of noise, the actual pole barn will be in the Northwest corner of his property. He noted pine trees along the East side of his property that would block noise and vision, and Mary Tyson has a nice wooded area on the back of her property. He does not believe she would hear any noise from his property as all activities will be strictly inside the building. He indicated parking would be near the accessory structure, and there is a large pine tree in close proximity which would screen the parking. Referring to the application, Mr. Hesser questioned the possible 0-2 employees. He explained the possibility of one of his wife's friends who may want to teach a lesson on the property.

Dwight Pletcher, 61931 CR 15, was present in remonstrance against the sign at that location.

Mr. Hesser questioned staff about the correct setback for the sign which staff indicated is 55 ft. from the centerline of the right-of-way.

The public hearing was closed at this time.

Mr. Campanello said he could go either way on the sign. He said he believes it will be a low intensity situation with one or two cars going onto the property for a lesson at a time such as one wrestling lesson and one pitching lesson. He also noted he does not see the sign being a problem being that close. As far as the Special Use, Mr. Hesser agreed it is low intensity. He added that he believes the concerns noted by the neighbors are for a different use/behavior than the petitioner is describing although he expressed appreciation for their concerns. Regarding the sign, Mr. Hesser noted a home workshop/business can have a sign as long as it is conforming which he believes this could be. He went on to say that a person coming to this facility is looking for this address and business, and the sign could be in conformance with the ordinance.

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 application, further moved that this request for a Special Use for a home workshop/business to allow for instruction of wrestling & baseball/softball hitting 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.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 7/6/15) and as represented in the Special Use application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

Motion: Action: Deny, **Moved by** Robert Homan, **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 and a Developmental Variance to allow for the placement of a sign 32 ft. from centerline of the right-of-way be denied.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

12. The application of *Stutzman Eli A/Elsie M Trustee Stutzman Tr (ea Life Estate)* for a Use Variance for a third residence on a parcel on property located on the North side of CR 34, 1,500 ft. East of CR 33, common address of 14673 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #14673CR 34-150701-1*.

There were 14 neighboring property owners notified of this request.

Eli Stutzman, 14693 CR 34, Goshen, was present on behalf of this request. He explained that he would like for his daughter to move home to help with the farming, and his parents are still living and occupy the dawdy house. This third dwelling would be temporary until they can move into the dawdy house themselves. Mr. Stutzman reported that the Environmental Health Department has been out to the property and told him that they would allow a hook up to the septic if they can get a straight run which a surveyor has confirmed will work. He noted the septic is located on the North side of the small house and the shop building is located near the center of the property. He would like to convert part of the shop into temporary living space for his wife and himself until his parents pass away. He showed the Board an aerial photo which he identified the structures marked #1 as the shop building, #2 as the main house, and #3 as the dawdy house *[attached to file as Petitioner Exhibit #1]*. When questioned about the use of the proposed living quarters after they move into the dawdy house, Mr. Stutzman said they will return it to shop or buggy shed. Regarding the two existing houses, Mr. Hesser asked if they are “grandfathered” because there was no history which Mr. Auvil confirmed and stated it is allowed by right now as well. If the Board approves the request, he suggested a review in three years at which time it could be extended if needed.

In terms of findings for a Use Variance, Mr. Homan suggested this is a hardship. He did agree with staff’s point that there is plenty of property to subdivide. Attorney Kolbus noted that the petitioner does not want to cut up the property because they intend to move back into the second residence. Mr. Hesser confirmed with Attorney Kolbus that the Board can place a time limit on a Use Variance. If approved, Mr. Homan suggested the three year time limit to touch base. If the situation is the same and it comes back to the Board, he said the circumstance at that point can be discussed. At that time, if the petitioner’s parents are gone, the building can be converted back to a non-residential use. Mr. Auvil added that it is a hardship to care for elderly parents in terms of time and finances.

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** Randy Hesser, **Seconded by** Tony Campanello that the request for a Use Variance for a third residence on a parcel be approved 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.
2. The use and value of the area adjacent to the property will be not affected in a substantially adverse manner.
3. A need for the Use Variance does 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.
5. The Use Variance, if limited to three years, does not interfere substantially with the Elkhart County Comprehensive Plan.

The following conditions were 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 as represented by the petitioner at the public hearing and in accordance with the site plan submitted at the public hearing (Petitioner Exhibit #1 dated 08/20/15), and as otherwise represented in the petitioner's questionnaire.
2. Approved for a period up to three years with renewal before the Elkhart County Advisory Board of Zoning Appeals, or when the dawdy house (identified as building #3 on Petitioner Exhibit #1 submitted at the public hearing) is no longer occupied by the current occupants, whichever occurs first.
3. All necessary permits must be acquired.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

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

14. Staff items:

15. The meeting was adjourned at 10:55 am.

Respectfully submitted,

Deborah Britton, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary