

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19TH DAY OF NOVEMBER 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 Vice-Chairperson, Roger Miller. Staff members present were: Chris Godlewski, Plan Director; 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, Roger Miller, Suzanne Weirick.

Absent: Randy Hesser.

2. A motion was made and seconded (*Campanello/Homan*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 15th day of October 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.

****It should be noted that Randy Hesser appears at this time.****

4. The application of **JEM Holdings, LLC** for a 40 ft. Developmental Variance to allow for the construction of a manufacturing building 10 ft. from an A-1 zone boundary (Ordinance requires 50 ft.) on property located on the Northeast corner of Elm Street and Wabash, 700 ft. East of N. Benton Street (SR 13), common address of 308 N. Wabash in Clinton Township, zoned M-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #308N. WABASH-151012-1*. It is noted Mr. Auvil, in an earlier statement, corrected the hearing date from November 18th to November 19, 2015, on the Staff Report.

There were three neighboring property owners notified of this request.

Rob Martin of Bar Design Group, 502 S. Main Street, Goshen, was present representing the petitioner. He noted the subject property is part of the old Carriage property. He went on to say that they are proposing to construct a building on this site and reasons for the request are the existing utilities and process that will be performed inside the building. Regarding placement of the building in another location, he explained that the building cannot be moved to the south to meet the setback requirement because the majority of the utilities run between the existing building and the proposed building which would add significant costs if relocated.

In regard to constructing a smaller building, Mr. Martin reported the proposed building is to house a large piece of equipment and the process of using that equipment and four to five steps after that to arrive at the finished product thus resulting in this size request. Therefore, length and width of the building are a result of the piece of equipment going in the building. He expressed feeling the request did not seem too far out of line, looking at it as old Carriage property, the parcel just to the West has an existing structure 8 ft. 6 in. off the line so the

proposed structure would be consistent with that building. Noting the adjoining agricultural land to the north, he stated there is a good-size existing building, approximately 20,000 sq. ft., closer to and within close proximity to the property line than this proposal. His thought would be that any future growth or development that would occur on the A-1 land to the north would already be aware of this proposed structure close to the line. He estimated a cost of \$19,000 to \$25,000 just to relocate utilities to move the building to the south. With the addition of the building and expanded manufacturing facilities, he noted the potential for additional 10-20 jobs. He also noted the petitioner could process larger jobs that he has to turn down now because of the lack of equipment to manufacture due to the size of the product and the timelines.

When Mr. Campanello questioned if they have talked with the adjoining A-1 property owners, Mr. Martin reported he has not but he believed the petitioner attempted to. The current operation is in the existing building which did require some extensive remodeling when purchased due to sitting vacant for a period of time with a significant investment (\$80,000-\$90,000) up to this point. He noted this company is interested in expanding and staying in the Millersburg area.

Dennis Miller, 7130 W 350 N, Shipshewana, was present in support of this request as the co-owner of Amity, who owns the building directly to the south. He expressed he would be in favor mainly for some of the reasons that the agent expressed. He noted the increase in jobs which helps the town of Millersburg. He went on to say this is another step in the direction of replacing jobs that were lost when Carriage went out of business which made a tremendous impact on the community.

In remonstrance to this request was Jeannie Riegsecker, 62279 CR 41, Goshen. She stated she and her husband own the land to the north of the proposed building site which they purchased for future development. She reported they are in favor of a denial.

Glen Riegsecker, 62279 CR 41, Goshen, was also present in opposition to this request. He stated they purchased the land for future development but have not done so yet. He went on to say that the request would restrict them from building anywhere close to their property line. If the Riegseckers develop this land, Mr. Campanello asked Mr. Auvil if they would need to maintain 50 ft. setback. Mr. Riegsecker indicated the parcels to the north that they own on the aerial photo at Mr. Hesser's request and stated they own approximately 200 acres. Mr. Hesser questioned the difference between the proposed structure and the existing building immediately to the West of it. Mr. Riegsecker reported the existing building was constructed by Carriage several years ago prior to their purchase of the property.

When Ms. Weirick questioned required setbacks, Mr. Auvil noted setbacks from property line for M-1/M-2 zone, but it is A-1 now. There was more discussion about required setbacks from property lines and between buildings. Mr. Homan questioned a possible State code requirement that commercial buildings be separated by 60 ft. Mr. Riegsecker stated his brother, who is a contractor, told him that was the requirement. Mr. Hesser questioned staff about why this northern adjoining property line would be considered rear rather than a side property line variance. Mr. Auvil stated he was simply giving the setbacks for the property. Mr. Hesser pointed out that if the north property line were considered the side, the setback would be 15 ft. Mr. Auvil noted the side adjacent to residential use or district because A-1 is potentially a residential district which is the reason for the 50 ft. rule. Mr. Hesser asked Mr. Riegsecker if he is talking about development as a manufacturing or residential area. Mr. Riegsecker said it could

go either way and noted he has been approached to put up retail stores along SR 13. He suggested that Millersburg has not been real open to more industrial or manufacturing. If approved, Mr. Miller questioned if approval will affect placement of any future buildings Mr. Riegsecker might place on his property. Mr. Auvil said he cannot say about future building setback lines because details about any future construction are unknown as is the specific use.

Mr. Homan asked Kevin Williams, Building Commissioner, about a possible State ordinance or rule requiring 60 ft. clearance between commercial buildings. Mr. Williams stated that can be changed with firewalls. He noted buildings can be made larger if there is 60 ft. clearance all away around and sprinkler systems. Mr. Riegsecker questioned if a 60,000 sq. ft. building would require 60 ft. clearance. Mr. Williams indicated that depends on the type of use and building. In response to Mr. Miller's previous question about possible affect on the north adjoining property if approved, Mr. Williams said it could but there are a lot of different variables. Mr. Riegsecker added that no one attempted to approach them as adjoining property owners about this request, and they were unaware until they received their letter.

Mr. Martin restated the approximate cost to relocate utilities upon Mr. Hesser's request. Mr. Martin did note that they did not have any estimates on the storm sewer. The storm sewer was pointed out on the aerial photo as an area in between the proposed and existing buildings. If there was no variance, Mr. Hesser suggested they could get significantly closer to the driveway and still have access to them. Mr. Martin stated they would still have to be moved which is costly. When Mr. Hesser questioned to cost of the overall project, Mr. Martin stated he did not have one.

Regarding neighboring properties and the possibility of inhibiting the north property owner's ability to develop in proximity of property lines, Mr. Martin reported that State Building Code requires any building to be a minimum of 10 feet off the property line which would apply to any manufacturing facility that would be on the neighboring parcels anywhere. He went on to say that building-to-building distance does not necessarily matter because the State Building Code regulates the distance setback from the property line to the building. Therefore, the relationship with the side or rear property line makes no difference to how far the property owner to the north can be from the property line. According to State Building Code without any firewalls, the closest two buildings could theoretically could be together would be 10 feet each or 20 feet total. For a 60,000 sq. ft. building, yard clearances must be provided, thus a 30 ft. minimum for the building code. He noted the reason 60 feet was mentioned in regards to the building code is because 60 ft. clearance to property lines and the building is equipped with a sprinkler suppression system, the square footage of a building is unlimited. Mr. Martin noted he never envisioned the northern property being developed as a manufacturing facility in which case it would need to be rezoned and that property would become just like all of the other manufacturing buildings in that area. Therefore, he is not sure how this request would inhibit the northern property owner's development as manufacturing.

Mr. Martin stated he may have been low with the estimates to relocate utilities but regardless, it is a financial issue. He noted if they are manufacturing a 40-50 foot panel for the side of an RV that goes through five steps when it exists the East end of the building, there will need to be some room to maneuver to get that product shipped off to the next facility. When Mr. Campanello questioned any plans for a loading dock in the building, Mr. Martin stated he does not believe so.

The public hearing was closed at this time.

Ms. Weirick noted the property to the north is A-1 currently and expressed feeling the Board needs to assume it will remain so. She went on to say that as much as it would be fantastic to stick within the required setbacks, precedence has already been set by the multiple buildings in that area. Mr. Campanello said it has not been proven that this request is going to be a hindrance to adjoining property owners because they would have to adhere to property line requirements.

Mr. Miller questioned if they heard a definite answer about not affecting any development to the north. He stated that he heard no. Ms. Weirick stated she also heard if it is potential manufacturing, she heard there will be no ramifications with present zoning. If there is a zone change, which is unknown at this time, no one can say if there is going to be an issue. She went on to say that she feels the decision must be made on the existing zoning.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Robert Homan that this request for a 40 ft. Developmental Variance to allow for the construction of a manufacturing building 10 ft. from an A-1 zone boundary (Ordinance requires 50 ft.) be approved based on the existing adjacent building to the west, the fact that the proposed building follows the same path, and following Findings and Conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare.
2. Approval of the request will not cause substantial adverse effect on the neighboring property.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property due to the large expense necessary to relocate the utilities that are in existence.

The following conditions were 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), unless specific permission for additional time is granted by the Hearing Officer or the Elkhart County Advisory Board of Zoning Appeals.
2. Approved in accordance with the site plan submitted (dated 10/12/15) and as represented in the Developmental Variance application.

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

Yes: Robert Homan, Tony Campanello, Suzanne Weirick.

No: Roger Miller, Randy Hesser.

5. The application of *Joseph L. Miller and Marilyn Miller* for a 542 sq. ft. Developmental Variance to allow for the conversion of a primary dwelling to an accessory dwelling with 1,742 sq. ft. of finished area on property located on the East side of SR 13, 1,500 ft. North of CR 44, common address of 67600 SR 13 in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #67600SR 13-151002-1*. It is noted Mr. Auvil, in an earlier statement, corrected the hearing date from November 18th to November 19, 2015, on the Staff Report.

There were six neighboring property owners notified of this request.

Joseph Miller, 67600 SR 13, was present on behalf of this request. He explained the reason for the request is to move his mother into the existing residence on the subject property and build another house on the property for him. He stated he is the current property owner, and his mother has a separate house and mortgage payment. He stated his mother's home could be sold if this request is approved.

Using the aerial photo, he indicated they would build the proposed residence on easterly vacant square area of property. After a brief discussion about the existing and a potential proposed driveway, Mr. Hesser questioned the possibility of subdividing the property with enough road frontage for two parcels. Mr. Auvil suggested there are a number of ways the property could be subdivided. He went on to note that the issue at this point is limited amount of square footage allowed by ordinance for accessory dwellings.

In terms of subdividing the property and meeting those requirements, he said it would be difficult to configure and would be up to the owner. Mr. Auvil stated both lots would need 100 ft. of road frontage. Looking at the lot as it is now, if a driveway was run along the south property line of a lot to the Northwest, Attorney Kolbus said a lot frontage variance would most likely be needed. Mr. Auvil stated the road frontage of the existing parcel is approximately 296 foot, and if 100 ft. was carved off, the new property line may cut through the middle of the existing house or close to it. Mr. Hesser questioned other restrictions of the accessory dwelling in the new Zoning Ordinance. Mr. Joseph Miller stated his proposal would be to use the same driveway if they could.

Ms. Weirick questioned the reason for this request. Mr. Joseph Miller noted improvements are needed on the current residence but the main reason is to eliminate a mortgage and to care of mother. Ms. Weirick noted she was asking more about placement of the proposed structure because there is a lot of land there.

Chris Mandell, 67596 SR 13, Millersburg, was present as the adjoining property owner to the north of the subject property. He expressed his concern and questioned if there is a second residential structure placed on the subject parcel with one single driveway and in the event that the property is ever split, how access would be gained to the rear property and proposed residence. Using the aerial photo, he pointed out the current borders and boundaries of his property and noted a sliver of property they were approached about selling to the petitioner to gain access to the rear parcel of property. He went on to say that he is opposed to selling that property due to privacy and concern about the proposed second residence being of modular construction versus Mr. Mandell's conventionally constructed residence. He also noted concern about his property value in the future.

Mr. Mandell noted a business being run from the subject property with fuel tanks without containment sitting on the ground and multiple vehicles and pieces of equipment. He questioned business being allowed there. Board member Miller noted that would be a separate issue. When Roger Miller questioned if Mr. Mandell already sold the sliver of property to the Millers, Mr. Mandell stated the proposed corner shown on the staff report photo and site plan would be purchased from the homeowner to the South of the Millers. Mr. Mandell noted there is actually

an access gate to the rear subject parcel which is on their property. As opposed to the current right angle at the corner of their adjoining properties, the request to purchase a pie shape of the Mandell property would run parallel with the property purchased from the south adjoining property owner. Due to their disagreement to sell this corner of property, Mr. Mandell believes that is the reason for the purchase of the corner of the south adjoining property to the Millers. Mr. Mandell also questioned property lines and stated he believes the existing pole building on the Miller property is on his property. He did express knowledge that a survey would be required to prove property lines. Mr. Auvil noted the GIS aerial photos are only representational.

In rebuttal, Mr. Miller stated he was not aware of property lines when the request was made. Regarding modular construction, he said he intends to build a nice home. Mr. Hesser noted the home plan was included in materials provided. Regarding the business, he indicated he is not sure what the boundaries are. He noted they have their construction equipment there and employees park their vehicles during the day. He reported a building permit was obtained at the time of construction for the existing pole barn which is 10 feet from the property line.

The public hearing was closed at this time.

Mr. Hesser noted the neighbor's concern but pointed out they have a flag pole lot themselves. He went on to say from the documentation provided, the proposed house looks to be a nice house. While he is sympathetic to the petitioner's claim, he feels this is simply building two houses on one lot which is not permitted. The request he feels is too much of a variance to fit within the Zoning Ordinance.

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

Motion: Action: Deny, **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 a 542 sq. ft. Developmental Variance to allow for the conversion of a primary dwelling to an accessory dwelling with 1,742 sq. ft. of finished area be denied.

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

Yes: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick, Randy Hesser.

6. The application of *David E. & Jennifer L. Berkey* for a 25 ft. Developmental Variance to allow for the construction of an addition to an existing manufacturing building 25 ft. from the South property line (Ordinance requires 50 ft.) on property located on the North side of CR 146, 468 ft. West of CR 23, common address of 19149 CR 146 in Jackson Township, zoned M-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #19149CR 146-151009-1*. It is noted Mr. Auvil, in an earlier statement, corrected the hearing date from November 18th to November 19, 2015, on the Staff Report.

There were 10 neighboring property owners notified of this request.

David Berkey, 24194 CR 44, Nappanee, was present on behalf of this request. He explained the variance request is for an addition to the existing manufacturing facility to increase manufacturing and warehouse space. When Mr. Hesser inquired about access to the property, Mr. Berkey indicated a legal easement and a recently purchased adjoining property that also has a drive. Mr. Campanello questioned existing buffering, and Mr. Berkey reported a dirt birm and

trees along the east property line and indicated there will be a berm placed at the west edge of current residential property to the south to keep noise levels down and line of sight for the neighbors.

Present in remonstrance was Jakob Kowalenko, 68639 CR 23, New Paris, who is an adjoining property owner to the east of the subject property. While there is an existing dirt berm, he reported it was recently lowered considerably. He questioned the possibility of a privacy fence being placed between the properties as they get a lot of paper debris and dirt on their property. He complained of noise from forklifts on the subject property and business operations continuing into the night.

In response, Mr. Berkey reported they have been working on the berm to move it closer to the property line to enlarge the parking area. He went on to say that the intention was not to lower it. He noted they do operate a second shift which is one of the reasons for the berm's existence, as well as the tree line, to keep the noise level down. He reported there is no forklift traffic for the night shift so they would only be in operation until 6 or 7 p.m. When Mr. Miller questioned trees on top of the berm, Mr. Berkey reported there are trees behind it, closer to the residential property, and the intention is to seed the berm to be mow.

When Mr. Campanello questioned adding top soil from the proposed building addition to create a more substantial berm, Mr. Berkey said they can look at adding more to it but noted they may get into the struggle of maintenance of the berm. He also noted increasing the berm may decrease the parking area, and went on to say that the berm may be at its crest now. Additionally, Mr. Berkey stated he was unaware that it was a problem. When Mr. Miller questioned the size of the trees, Mr. Berkey suggested they are 25 or 30 ft. in height. He also stated he is not against planting more trees to create more of a buffer. Because the existing trees are so tall, he did say the lower branches are not very substantial. When Mr. Miller mentioned debris blowing onto adjoining properties, Mr. Berkey reported there is a row of brush trees along the large pine trees. Additionally, he reported he believes there is an existing wire fence as well.

The public hearing was closed at this time.

Mr. Campanello said it appears the petitioner has been a good neighbor. Even though the remonstrator expressed some concerns, he noted Mr. Kowalenko did not seem to be against the proposed addition.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Suzanne Weirick 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 25 ft. Developmental Variance to allow for the construction of an addition to an existing manufacturing building 25 ft. from the South property line (Ordinance requires 50 ft.) 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), unless specific permission for additional time is granted by the Hearing Officer or the Elkhart County Advisory Board of Zoning Appeals.
2. Approved in accordance with the site plan submitted (dated 10/9/15) and as represented in the Developmental Variance application.

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

Yes: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick, Randy Hesser.

7. The application of *Alan D. & Joellen K. Sands* for a 7 to 1 depth to width ratio Developmental Variance and for a 50 ft. lot width Developmental Variance (Ordinance requires 100 ft.) to allow for the construction of a residence on property located on the East side of CR 31, 400 ft. North of CR 44, common address of CR 31 in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 31-151012-1*. It is noted Mr. Auvil, in an earlier statement, corrected the hearing date from November 18th to November 19, 2015, on the Staff Report.

There were six neighboring property owners notified of this request.

Phillip Barker, 1002 Zollinger Road, was present on behalf of this request representing the petitioners. He pointed out the entire parcel on the aerial photo that was purchased by Mr. and Mrs. Sands who are asking for the opportunity to subdivide the property to ultimately create a two lot minor subdivision for their son and daughter-in-law to build a home. He went on to say that they are not asking for any other development and never intended to develop it with more than a single house until their son decided he would like to live out there.

Regarding the 50 ft. frontage and driveway, Mr. Barker suggested that 100 ft. would put them right next to the existing house and noted that 50 feet is the same width as a platted roadway. He pointed out the proposed access which would line up opposite the existing driveway across the street. He reported this would preclude any further development of the remainder of the 10 acre parcel and indicated they would maintain the access strip near the West property line to the North to allow Mr. Sands' entrance to the rear of property.

Regarding Staff Finding #3 about strict application not resulting in an unnecessary hardship, Mr. Barker noted that if they went ahead and platted a roadway with a cul-de-sac to access the rear of the property, the hardship would be the expense of the driveway being approximately \$30,000. He went on to say that it would also be a hardship for County Highway as they hate to plow and maintain roadways for one house. He mentioned the petitioners have talked to neighbors, and no one seems opposed to the request. He noted he is sure it will be a nice house and the petitioners are also present today.

Mr. Homan noted a strip of land on the West and East sides of the road and questioned the possibility of a utility easement. Mr. Barker reported it was an old railroad right-of-way. He went on to say that the petitioners actually have done the neighborhood a big favor by rezoning the subject property to A-1. Mr. Homan questioned if the railroad property has been vacated. In response, Mr. Barker submitted a drawing which shows some of the vacations in question *[attached to file as Petitioner Exhibit #1]*. Mr. Homan noted the adjoining parcel to the South seems to contain vacated railroad right-of-way. Mr. Barker indicated the drawing also shows the ultimate intent with the subdivision should this request be approved.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus noted this request is prerequisite to a minor subdivision which cannot be completed without this. Mr. Miller noted there seems to be plenty of room on the property for a septic. Mr. Barker confirmed the proposed parcel is over an acre. Regarding line of sight and

sight distance, Ms. Weirick asked staff if they are talking about ingress and egress from the driveway which Mr. Auvil indicated was correct. When she further questioned what blocks line of sight with the 50 ft. lot variance, Mr. Auvil explained that without being an engineer, the 100 ft. requirement for frontage is a good amount of space and included in the ordinance to provide that sight distance. He suggested a hill, depression, or curve within that distance can influence the topography of the land and can have a major influence or impact on that. Generally requiring the 100 feet is for the purpose of road safety and access to the parcel. Mr. Hesser stated that his recollection of that part of county and roadway is that it is pretty flat. When the agent was asked to comment on that, Mr. Barker said contours are shown on the drawing, and he reported that area is pretty flat. He added that if there are two 100 ft. parcels side by side, with a 10 ft. building setback on the property line separating the two, he suggested the two driveways could be within 20 ft of each other. He argued that sight distance is not really impacted by frontage but by the topography. Mr. Hesser stated that frontage is a factor. Mr. Homan expressed that the 100 ft. frontage requirement is part of the ordinance, and he does not see anything peculiar to this arrangement to set that aside. Mr. Hesser noted if the lot width were made 80 feet, the 7 to 1 variance would not be needed, and he said he has less of a problem with the 50 ft. width than the 7 to 1 variance. Mr. Miller stated he felt the request is two major hits. If it were 80 feet, Mr. Hesser would say it is close enough considering it is a flat area. Mr. Homan noted flag pole lots are not viewed particularly well in this county.

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

Motion: Action: Deny, 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 7 to 1 depth to width ratio Developmental Variance be denied.

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

Yes: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick, Randy Hesser

Motion: Action: Deny, Moved by Roger 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 a 50 ft. lot width Developmental Variance (Ordinance requires 100 ft.) to allow for the construction of a residence be denied.

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

Yes: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick, Randy Hesser.

8. The application of *Clarence J. & Gretchen D. Yoder* for a Developmental Variance to allow an existing residence on property served by an access easement located on the 1,000 ft. North of CR 28 and 300 ft. East of Zollinger Road, common address of 18425 CR 28 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Mabry presented the Staff Report/Staff Analysis, which is attached for review as *Case #18425CR 28-150012-1*.

There were three neighboring property owners notified of this request.

Barry Pharis, Brads-Ko, 1009 S. Ninth, Goshen, was present on behalf of this request representing the petitioners who are also the owners of the property. He explained that the

current 14 acre parcel is owned by the Yoders and is in their IRA. They bought this property in the 1990's from an elderly lady whose son sold the property with a life lease, and now over 20 years later, the elderly lady is still living there. At one time, he reported that the Yoders sold or transferred to their son-in-law and daughter a portion of the property which has an existing residence on it. Their children's home (the existing residence) and the balance of the property is served by a driveway. The Yoders then built their dream home on the five acres adjacent to the lake and installed another driveway. He reported that Zollinger Road turns into CR 28 at a right angle and then the property goes downhill and back up again. The two driveways that have been created both have adequate line of sight both ways.

Mr. Pharis noted Mr. Yoder's concern about the Staff Report's comment about an illegal subdivision which Mr. Pharis indicated he did not believe that it was an illegal subdivision in 2004, even though it is now by the current standards. Regarding the life lease, Mr. Hesser asked if the petitioners are willing to continue to live by that as a commitment. Mr. Pharis indicated they are and said it is a deed restriction on the property. He went on to say if they were to sell the property, the buyer would also have to live by that.

In an attempt to explain what the petitioners hope to accomplish, he said there is currently a five acre parcel and a 14 acre parcel in a separate deed but both parcels are owned by the Yoders. However, the 14+ acre property is in an IRA, and the IRA rules say you cannot sell a parcel to yourself. So, in 2004 when that was in place Mr. Yoder could not sell a piece to make it a subdivision. Therefore, they simply created the driveway. Earlier this year, a family approached Mr. Yoder about purchasing their house. In attempting to get everything organized in Planning & Development, they were told by staff that they could not sell the five acre parcel as it has no road access. Mr. Hesser suggested the IRA sell a 100 ft. strip along with the 5 acre parcel to sell the house as legal.

Regarding the subdivision process, Mr. Pharis stated the property at road is severely downhill. Following the ordinance, he stated he would have to take a 250 foot strip to avoid any BZA requests. He added that a driveway on that strip would have no line of sight, and he does not believe the Highway Department would issue a permit for that driveway because you cannot see the curve and it would be at the top of a hill. If the Board still wishes for a subdivision, he still requested the easement be granted so the existing driveway could be used. Also, in that case, it would not be necessary to sell part of the IRA. He suggested another alternative of platting 100 ft. down the middle would create an unbuildable, illegal lot. Mr. Miller and Mr. Pharis had some discussion about the exact topography of the land in that area and actual line of sight. Mr. Pharis reiterated that he does not believe County Highway will issue a driveway permit in that area.

While Mr. Pharis indicated he is not opposed to subdividing the property, he stated he would like to do it in such a way that the existing driveway remains in place for safety reasons. With the right to have the easement serve the five acre parcel with the balance of the 14 acres to be platted as the second lot, there would be a legal description that would go to an attorney, a cross easement/cross maintenance agreement would be prepared for that driveway, then the Yoders would be able to sell their home, move into a condominium, and at some point, sell the balance of the property with two stipulations (the life lease and the easement across the property to grant a driveway to the five acre parcel). According to the current ordinance, he said the only

way to legally do this is Mr. Yoder would have to sell a 250 ft. strip, two lots would be platted (the house with a driveway strip and the other would be the balance of the property).

Mr. Hesser noted that the IRA has nothing to do with land use, and Mr. Pharis mentioned it is a hardship to the petitioner. With Mr. Pharis's proposal, Mr. Hesser stated the house with the life lease would no longer need to be destroyed as it would be a legitimate house on that parcel which is a by-pass of the ordinance requirements that is entirely self-created. Regarding the Staff Analysis, Mr. Pharis noted the request will not be injurious, but it does impact the neighbors. He pointed out the property to the West is Maplecrest County Club's golf course, to the North is a huge parcel with very severe high water issues with one house on CR 30. He noted the son-in-law and daughter's house to the West at roadway, the life-lease residence, and two neighbors. If they follow the intent of the ordinance and relocate the driveway, Mr. Pharis stated he will create an impact to the neighbors, but the existing driveway does not impact neighbors.

If a two lot minor subdivision and an easement for the driveway would make more sense than trying to create another driveway, Mr. Pharis requested the easement for the driveway be granted with the requirement to subdivide. If there is an easement given to the driveway and the Southeastern corner of the property gets sold separately, Ms. Weirick questioned staff if there would be multiple access to that one driveway granted or if it is private to the back property. Mr. Auvil stated it would depend on the language of the easement but a condition could be placed on the easement that would provide multiple access. He suggested another solution would be to carve out the house and create a three lot subdivision. Mr. Pharis noted some of that would be unbuildable as it is not flat, line of sight could not be met, the soils will not support a septic field system, and the soils would possibly not support a basement. If access easement is granted, Mr. Hesser stated he does not see the justification for requirement to tear down house anymore.

According to the GIS map, Mr. Auvil indicated it does not appear there is an issue with soils in this area. There was further discussion about possible solutions for subdividing the property and how it came to be an illegal lot. Mr. Hesser noted that at the point when the request was approved in 2004, it was one big lot and the owners changed that. He added that as soon as the five acre parcel was carved out, they created an illegal lot because there is no road access.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser said he is very reluctant to allow this without knowing that they cannot get a driveway along the Eastern border and noted he would like to look at the site himself. Mr. Miller indicated he knows where the bottom of the hill is, and it is steep. Mr. Hesser suggested tabling the request to see an attempt to get a driveway along the Eastern border which would get rid of the problem after it is sold. If tabled, Mr. Homan stated he would like documentation from the Highway Department. Attorney Kolbus noted that the Board has a right to look at the subject property. Mr. Auvil indicated that staff is willing to work with the petitioner to resolve the issue. Mr. Pharis requested two months to obtain the requested information.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that this request for a Developmental Variance to allow an existing residence on property served by an access easement be tabled until the January 21, 2016, Elkhart County Advisory Board of Zoning

Appeals meeting to allow petitioner to pursue verification from the Highway Department whether a driveway permit could be obtained.

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

Yes: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick, Randy Hesser.

****It should be noted that Suzanne Weirick steps down at this time.****

9. The application of *Trails of Adventure, Inc.* for an amendment to an existing Special Use for KOA Campgrounds to allow for the construction of a building for firewood storage on property located on the Northwest corner of SR 13 and SR 120, common address of 52867 SR 13 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 #52867SR 13-151012-1*.

There were 18 neighboring property owners notified of this request.

Robert Harrison, 52867 SR 13, was present on behalf of this petition representing the owner (his mother) and manager (his brother). In an attempt to prevent the movement of firewood, he said they requesting to construct a wood shed for storage of firewood right next to the existing garage.

Peter Hersey, 11539 Oak Hills Drive, was present along with his wife in support of this request. He reported their home is immediately to the West of the subject property, and they have no objection.

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 for KOA Campgrounds to allow for the construction of a building for firewood storage 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 10/12/15) and as represented in the Special Use application.

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

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

10. The application of *Sundberg & Sundberg (buyer) and E & C LLC (seller)* for a Special Use for a school on property located on the South side of CR 6, 490 ft. West of Old Farm Road, 1/2 mile West of CR 10, common address of 30380 CR 6 in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #30380CR 6-151012-1*.

There were 21 neighboring property owners notified of this request.

Kathy Mossey, 51233 Lake Point Court, Granger, was present representing the petitioner in this request. She reported the property is currently vacant and up for sale. She noted the petitioner is the potential buyer who wants to operate a school for autistic children. When Mr. Homan questioned the number of children to be served by this facility, Ms. Mossey reported the school currently operates on County Road 7 in Elkhart in a leased building and believes there are between 30-40 students. When Mr. Hesser noted the questionnaire indicates 60 employees, Ms. Mossey reported she believes for autism, two adults are required per child. Attorney Kolbus noted the questionnaire stated the estimated number of daily clients is 30. Mr. Campanello mentioned recalling a previous BZA request by the current owners for some parking and questioned if there is adequate parking.

Chet Sutula, 11026 Birch Lake Drive, Granger, was present as the current owner. In response to Mr. Campanello's question about the parking, he said they requested more parking because of their desire to add more staff. After they obtained approval for more staff, they found they really did not need additional parking so it was never completed.

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 a Special Use for a school 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 10/12/15) and as represented in the Special Use application.

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

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

11. The application of *Five H Ranch Inc., An In Corp* for a Special Use for a wireless communications facility and a 56 ft. Developmental Variance to allow for the placement of a 140 ft. communications tower 84 ft. from the North side property line (Ordinance requires 140 ft.) on property located on the East side of CR 3, 450 ft. South of CR 20 (Mishawaka Road), common address of 57678 CR 3 in Baugo Township, zoned M-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #57678CR 3-151008-1*.

There were 11 neighboring property owners notified of this request.

Jon Shultz, 9144 N 900 W, Ligonier, was present representing the petitioner in this request. He reported recently an older building was torn down and a new office facility was

constructed for Emergency Radio Service. He stated they have their own turbo Motorola radio system that serves customers throughout the county. He reported there was an existing 180 ft. tower when the property was purchased, but that structure was compromised so they tore it down. He noted the previous tower was taller than the proposed one. He reported they received FAA approval for up to 149 ft which is the reason for proposed height of this tower.

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 a Special Use for a wireless communications facility 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 10/8/15) and as represented in the Special Use application.

The motion also included the request for a 56 ft. Developmental Variance to allow for the placement of a 140 ft. communications tower 84 ft. from the North side property line (Ordinance requires 140 ft.) 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 10/8/15) and as represented in the Developmental Variance application.

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

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

12. The application of **John Berkey and Patricia Berkey** for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the South side of Ideal Beach Road, 145 ft. East of Heaton Vista, and North side of East/West alley, 100 ft. East of Heaton Vista and 130 ft. South of Ideal Beach Road; 661 ft. Southeast of Third Street; 750 ft. East of CR 113, being Lot 3 of Ideal Beach 3rd Add., common address of Heaton Vista in Osolo Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #00000HEATON VISTA-151012-1*.

There were 16 neighboring property owners notified of this request.

Joe Morgan, 23215 Penton Court, Elkhart, was present on behalf of this request representing the petitioners who are now wintering in Florida. He stated they purchased the three lots across the street from their residence in 1996, and maintains them very well. He expressed issues with the neighboring property owner on the adjacent Lot #4 with the property

being an eyesore, a dispute over the property line, and the neighbor's shed and wood pile being on the petitioners' property. He stated the proposed building will set near the property line in dispute to establish the correct property line and block the view of Lot #4. He noted the proposed 24'x30' building is a nice, steel structure. Mr. Morgan explained the Berkeys would like to have their daughter move in on Lots 1 and 2 but would like to put this storage building in place first. He noted that the petitioner is a good neighbor and wants to remain that way. Mr. Homan pointed out that the Board cannot address the conduct of the neighbor.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan noted a Use Variance is the highest standard to achieve in the county. While it is not completely unusual to have an accessory or garage on a separate lot on lake property, he pointed out that is not the custom in this area. Mr. Hesser stated it does not fit the requirements of the ordinance. Mr. Campanello suggested they would have to combine the three lots into one parcel then build a house and accessory building. Mr. Homan noted that one of the criteria of a Use Variance is the petitioner's burden to make the case. In this case, he noted the Staff Report indicates the petitioner has not demonstrated a need to set aside the developmental standards of the Zoning Ordinance which he believe is correct as there is nothing peculiar to the property.

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

Motion: Action: Deny, 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 the construction of an accessory structure without a residence be denied in accordance with the staff analysis.

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

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

*****It should be noted that Attorney Kolbus steps down at this time*****

13. The application of *Lar-Lee, Inc. (lessor) and Central States Tower (lessee)* for a 90 ft. Developmental Variance to allow for the placement of a tower 65 ft. from the North property line (Ordinance requires 155 ft., height of tower) on property located on the Northwest corner of CR 138 and CR 31, common address of CR 138 in Elkhart Township, zoned M-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #CR 138-150827-1*. He noted the request for a Developmental Variance was previously tabled to provide collapsibility information.

Bryan Donley of Insite, 660 Midwest Road, Oakbrook Terrace, IL, was present on behalf of Central States Tower and Verizon Wireless for this request. He noted the setback variance request allows the property owner to use his property as efficiently as possible with the cell tower placement on the property. He noted that he provided the necessary documentation on collapsibility of the tower.

Mr. Auvil submitted an email from the adjoining property owners whose property is surrounded by the subject property on three sides requesting that this petition be approved [*attached to file as Staff Exhibit #1*].

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** 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 a 90 ft. Developmental Variance to allow for the placement of a tower 65 ft. from the North property line (Ordinance requires 155 ft., height of tower) 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), unless specific permission for additional time is granted by the Hearing Officer or the Elkhart County Advisory Board of Zoning Appeals.
2. Approved in accordance with the site plan submitted (dated 8/27/15) and as represented in the Developmental Variance application.

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

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

*****It should be noted that Attorney Kolbus returns at this time*****

14. The Show Cause Hearing for *Harvest Ministries A Church Association* for a requested rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the East side of CR 1, 700 ft. North of CR 12, common address of 54820 CR 1 in Cleveland Township, zoned A-1, came on to be heard.

David Powell, 26927 Carriage Court, Elkhart, was present on behalf of this request. He reported the additional parking has not been installed as of yet as they have not grown to the point that it is necessary yet. Additionally, he stated they are still looking forward to expanding the parking at some point, and he would be glad to take care of the commitment today. Mr. Hesser suggested tabling this issue for one month. If the necessary documentation is provided to staff, Attorney Kolbus stated the petitioner would not have to come back next month.

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

Motion: Action: Table, **Moved by** Robert Homan, **Seconded by** Randy Hesser that this request for a rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be tabled until the December 17, 2015, Elkhart County Advisory Board of Zoning Appeals meeting for execution of the commitment.

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

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

15. The Show Cause Hearing for *Timmy Jones* for a requested rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the South side of Vista Dr., 300 ft., West of Ardmore Drive,

North of Woodridge Dr., West of CR 9, common address of 26150 Vista Lane in Concord Township, zoned R-1, came on to be heard.

Mr. Auvil indicated the requested rescission should be withdrawn. Attorney Kolbus noted this request was originally approved only for a period of one year so it expired under its own terms.

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

Motion: Action: Withdraw, **Moved by** Robert Homan, **Seconded by** Randy Hesser that this request for a rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be withdrawn.

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

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

16. The Show Cause Hearing for *Harvest Ministries A Church Association* was previously heard. See Item #14 on Page 16.

17. The Show Cause Hearing for *Ines Ambriz* for a requested rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the East side of Woodrow Street, 149 ft. North of Carl Street, North of CR 20, common address of 57588 Woodrow Street in Baugo Township, zoned R-2, came on to be heard.

For the record, Mr. Hesser noted that no one is present from the public on that matter. Mr. Auvil noted letters were sent, and no mail was returned. Attorney Kolbus also indicated this item was published as part of the legal advertisements.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that this request for the rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

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

18. The Show Cause Hearing for *William Christopher & Christina A. Rogers* for a requested rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the West side of Clinton Street, 180 ft. South of 3rd Street, common address of 68455 Clinton Street in Jackson Township, zoned R-3, came on to be heard.

Mr. Auvil indicated that Mr. Rogers called on November 12, 2015, and reported that use never went through so they never followed through on the commitment form.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the request for the rescission of Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

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

19. The Show Cause Hearing for **Benjamin A. & Amy Jo Miller** for a requested rescission Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the West side of CR 35, 430 ft. North of Rosewood Drive, common address of 57319 CR 35 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil noted he has not heard from anyone regarding this matter.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Robert Homan that this request for a requested rescission Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

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

20. The application of **Lar-Lee, Inc. (lessor) and Central States Tower (lessee)** for a Special Use for a wireless communication facility and a 90 ft. Developmental Variance to allow for the placement of a tower 65 ft. from the North property line (Ordinance requires 155 ft., height of tower) was previously heard. See Item #13 on Page 15.

21. The Show Cause Hearing for **Brian J. & Jamie L. Breniser** for a requested dismissal of Use Variance on property located on the South side of CR 20, 1, 200 ft. West of CR 43, common address of 11200 CR 20 in Middlebury Township, zoned A-1, came on to be heard.

Giving some history, Mr. Auvil indicated there were two dwellings on one property before it was allowed by right so Mr. Breniser had submitted a Use Variance application. At that hearing, the Board tabled the matter indefinitely. Since then, with the new Zoning Ordinance, a primary dwelling and an accessory dwelling are allowed on one property. He reported that Mr. Breniser called on November 16, 2015, to discuss this issue and returned yesterday with a new floor plan of the accessory dwelling to meet the standards. Currently, Mr. Auvil reported this is a Code Enforcement issue and this Use Variance is a mute point. For record, Mr. Auvil noted that Mr. Breniser's certified letter was returned "rejected".

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a dismissal of a Use Variance previously tabled by the Board of Zoning Appeals be dismissed.

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

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

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

23. Mr. Auvil presented a staff item for Robertson Chomphanuvong and Soukanh Keovilayvong – 17341 US Highway 20-140519-1 – as a request for a minor change to a site plan amendment. He indicated the request is to move the construction site for a 40’x60’ worship building to an addition to an existing building and a parking area on the property.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Robert Homan that the Board approve this request as a minor change to the Special Use permit.

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

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

24. The meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Deborah Britton, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary