

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 15TH DAY OF OCTOBER 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; Mark Kanney, Planner; Liz Gunden, Planner; Kathy Wilson, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Robert Homan, Tony Campanello, Roger Miller, Suzanne Weirick.

Absent: Jennea Schirr, Randy Hesser.

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 17th day of September 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 ***Josiah D. Cummings*** for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure on property located on the East side of CR 19, 1,400 ft. North of CR 20, common address of 58202 CR 19 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 #58202CR 19-150825-1*.

There were four neighboring property owners notified of this request.

Josiah Cummings, 58202 CR 19, Goshen, was present on behalf of this request and stated he needs more storage room. Therefore, he is requesting a garage addition to avoid cluttering up his property with outside storage. He also mentioned possibly having the ability to drive through the garage with an additional rear door to access the back of his property. Mr. Homan noted the “approximate dimensions” and questioned eave height of the addition. Mr. Cummings responded that he desires to make the house look appealing with the addition and may add on to the residence in the future. Ms. Weirick questioned if he had spoken to neighbors about his request, and Mr. Cummings indicated he had not. When Mr. Homan questioned the allowed accessory storage, Mr. Auvil indicated as the subject property is less than three acres, the allowed accessory storage is 110% of the living space.

Matthew Merrick, 58182 CR 19, Goshen, was present as the adjoining property owner to the north. While he said he does not have any objection to the garage addition, he expressed concern about the petitioner’s ability to access the rear of the property with the large size of the proposed addition. Mr. Campanello noted Mr. Cummings’ suggestion of a rear garage door. Mr. Merrick questioned the ability to pass through the garage if it is being used for storage.

Ms. Weirick questioned the current percentage of accessory storage which Mr. Auvil noted is 1,208 sq. ft., making the allowed accessory storage amount of 1,328 sq. ft. Attorney Kolbus indicated the current accessory storage is 998 sq. ft. Ms. Weirick noted the petitioner

could still add on to his garage as long as he stays within the requirement. Additionally, Mr. Auvil noted if the petitioner removed some of the existing accessory storage structures, he would have more square footage available for his garage addition.

The public hearing was closed at this time.

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

Motion: Action: Deny, Moved by Suzanne Weirick, **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 denied.

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

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

5. The application of *James & Deloris Merritt (buyers) and Curtis Steve Merritt and Julie Ann Merritt (sellers)* for a Special Use for a mobile home on property located on the South side of State Line Road, 4,600 ft. West of CR 15, common address of 23176 State Line Road in Osolo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #23176State LineRd-150817-1*.

There were four neighboring property owners notified of this request.

James Merritt, 1201 CR 15, Lot 17, Elkhart, was present on behalf of this request. He submitted a signed petition of neighboring property owners in support *[attached to file as Petitioner Exhibit #1]*. He noted this is a double-wide manufactured home. He went on to explain that next year, he plans to put the residence on a crawl space but it would be park-set (on pillars) at first. Mr. Merritt noted six single-wide mobile homes but most of the homes in that area are modulars which is the same as the proposed structure. He reported he wants to tear down the existing residence and accessory structure to make the land more presentable and improve the neighborhood. He expressed his desire to get out of the mobile home park where he resides currently. He indicated he previously lived in the neighborhood where the subject property is located and has spoken with neighbors regarding this request. He reported speaking with one neighbor who was opposed to the request as she thought the home was going to be a single-wide. When he explained the home is going to be a double-wide, he said she indicated she did not have a problem with it.

Mr. Homan inquired if the house to the west is a double-wide, and Mr. Merritt indicated yes. He went on to say that property owner signed the petition in support. Mr. Campanello asked if they will relocate the house to set it on a foundation. Mr. Merritt said they plan to dig out and place the foundation under the home where it sits but may have to move the house back onto the crawl space.

Steve Merritt, 23608 State Line Road, Elkhart, was present in support of this request. He reported he has lived in the neighborhood for 29 years and his home is a mobile home on a permanent foundation. He stated he is the current owner of the subject property and plans to sell it to his brother, the petitioner. He indicated 95% or more of the neighborhood in a two-mile area of the subject property are either single-wide or double-wide mobile homes. He reported

only one stick built residence within one or two thousand feet of the subject parcel. He went on to say that property owner has no objection to this request although they did not obtain her signature. Lastly, he indicated he sees this request as a benefit to the neighborhood.

Mr. Steve Merritt added that he worked in the field of constructing manufactured home neighborhoods for 30 years. He reported it is possible to put a foundation under a home without moving the home although it is a challenge. When Mr. Homan asked where Steve Merritt lived, he indicated down the street from the subject property to the west.

If approved, Mr. Campanello asked the petitioner if he had any objection to a commitment to place the manufactured home on a foundation within a certain amount of time. Mr. Merritt agreed with a commitment and suggested one year.

There were no remonstrators present.

The public hearing was closed at this time.

When Mr. Homan suggested the Board is getting close to fixing problems for people, Mr. Campanello said in this particular area, the request makes sense. If leaning towards approval, Mr. Homan said he would feel more comfortable if the double-wide is set on the foundation first. Mr. Miller also questioned what happens if the home is not placed on a foundation in a year. Mr. Auvil suggested a renewal in one year, and the request could then be revoked. He went on to say that this request would not be needed if the home was placed on a permanent foundation from the beginning. Mr. Miller noted he is in favor of cleaning up and improving the area. If the Board is inclined to approve the request, Mr. Homan said he would go along with a one year limitation. Mr. Miller suggested 18 months, and Ms. Weirick agreed. If the foundation is placed, Attorney Kolbus said the home becomes legal, and there is no need to return for a new Special Use.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Suzanne Weirick that this request for a Special Use for a mobile home be approved based on the following Findings and Conclusions of the Board:

1. Will be consistent with the spirit, purpose and intent of the Zoning Ordinance. The proposed mobile home does meet the developmental standards in the Zoning Ordinance if placed on a foundation within the time frame of the commitment.
2. Will not cause substantial and permanent injury to the appropriate use of neighboring property.
3. Will substantially serve the public convenience and welfare by have a commitment to place a foundation under the double-wide mobile home within 18 months.

The following condition was imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 8/17/15) and as represented in the Special Use application.
2. Approved for a period of 18 months with the double-wide mobile home to be placed on a permanent foundation on or before April 15, 2017.

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

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

6. The application of *Clint Anderson & Adrienne Anderson* for a Special Use for an agricultural use for the keeping of a mini horse in an R-1 district on property located on the East end of Jessie Street, 200 ft. East of Thrash Lane, 690 ft. South of CR 108, 2,770 ft. West of CR 3, being Lot 2 of Anderson Soales Minor, common address of 54630 Thrash Lane in Cleveland Township, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #54630ThrashLn—150914-1*.

There were 20 neighboring property owners notified of this request.

Clint Anderson, 54630 Thrash Lane, Elkhart, was present on behalf of this request. If approved, he stated they intend to fence in a 100'x100' area of the property and build a lean-to for the horse to get out of the weather. When Mr. Homan questioned the parcel to the north with a large structure, Mr. Anderson reported it is a large storage building. Mr. Homan further questioned if there is any livestock on the adjoining north property, and Mr. Anderson reported there is not.

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 an agricultural use for the keeping of a mini horse in an R-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 9/14/15) 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, Suzanne Weirick.

7. The application of *Bethel Missionary Church Board of Trustees* for an amendment to an existing Special Use for a church for the construction of an accessory structure and adding additional property located on the West side of CR 7, 2,403 ft. South of CR 32, common address of 63473 CR 7 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 #63473County Road 7-150911-1*.

There were six neighboring property owners notified of this request.

James Ramer, 64578 Orchard Drive, Goshen, was present on behalf of this petition representing Bethel Missionary Church as a trustee. With their need for additional storage at the church, he said they would like to place a 12'x20' off-site built structure to the west of the cabin.

He noted the storage building would match the cabin. He reported they talked to the neighbor to the north but did not speak with neighbor to the south.

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** 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 an amendment to an existing Special Use for a church for the construction of an accessory structure and adding additional property 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 9/11/15) 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, Suzanne Weirick.

*****It should be noted that Attorney Kolbus steps down*****

8. 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) on property located on the Northwest corner of CR 138 and CR 31, 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*.

There were 23 neighboring property owners notified of this request.

Bryan Donley of Insite, 15660 Midwest Road, Oakbrook Terrace, Illinois, was present representing Verizon Wireless and Central States Tower on behalf of this request. He said the request is for a new monopole tower to improve the quality and level of coverage in and around this location. He went on to say this area has capacity issues. Regarding the Developmental Variance, Mr. Campanello questioned if the tower is designed to collapse upon itself. Mr. Donley reported yes and went on to say that all new towers are designed that way. He noted he could provide the engineering documentation. For the record, Mr. Auvil stated he previously requested that information but did not receive it which is the reason for the denial. Stating that was most likely an oversight on his part, Mr. Donley apologized and reiterated that he could provide the necessary information. When Mr. Miller questioned how the tower collapses on itself, Mr. Donley explained the tower is built in pieces and designed to shear at a certain wind-load and fall over on itself. Mr. Campanello suggested tabling the request for the petitioner to provide tower engineering documentation. Mr. Homan asked if staff would have changed their recommendation if they have received documentation. Mr. Auvil added that a comment from the

property owner it could affect would also be helpful. There was some discussion about a similar request within the last few months that was before the Board. Mr. Donley reported he represented the previous petitioner, and it was for a setback variance application. While it was a different situation, he reported with the engineering documentation presented at that time, the request was approved.

When Mr. Campanello questioned why they would not relocate the tower into a position that would meet the requirements, Mr. Donley explained the development of this tower began under the previous Zoning Ordinance with the much of the process already completed. They have invested quite a bit of money into this exact location and the exact GPD coordinates do matter. Mr. Miller noted his concern about the collapse of the towers with houses nearby. Mr. Auvil stated the fall zone equal to the height of the tower is pretty standard. He said he would feel comfortable with documentation about collapsibility and/or a statement from the property owner it could affect indicating they understand the dangers and do not object. He went on to note that this neighbor was notified and had the opportunity to appear today. Mr. Campanello suggested tabling the request until documentation is received.

Mr. Donnelly asked that just the setback variance be tabled with a decision made on the Special Use Request.

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 communication 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 8/27/15) 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, Suzanne Weirick.

Motion: Action: Table, **Moved by** Tony Campanello, **Seconded by** Suzanne Weirick that the 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 tabled until the November 19, 2015, Elkhart County Advisory Board of Zoning Appeals meeting for petitioner to submit documentation regarding collapsibility of the tower.

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

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

*****It should be noted that Attorney Kolbus returns*****

9. The application of *Annie Ragland* for a Special Use for a home workshop/business for a greenhouse and for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure on property located on the South side of US 20, 130 ft. East of Industrial Parkway, common address of 1901 Toledo Road in Concord Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #1901ToledoRd-150914-1*.

There were 19 neighboring property owners notified of this request.

Thour Long, 1901 Toledo Road, was present as the Business Manager on behalf of this request. He stated his daughter is the petitioner but does not live at the subject property at this time, but he does. Looking at the aerial photo, Mr. Homan discussed some of the surrounding property and history (Sautter's Greenhouse and Bontrager Pools). He questioned how Sautter's was allowed to operate in an R-1 zone. Mr. Godlewski stated it was according to some of the zoning and a Special Use. Board members noted some more recent BZA action on the former Sautter's property, but those requests did not get completed. While the information on the application was complete, Mr. Homan noted some concern about who the petitioner is and who lives there.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan noted concern about whether the area is going to be residential or commercial. When the possibility of rezoning was mentioned, Attorney Kolbus said he felt it is best handled as a Special Use with conditions/commitments because he cannot see the Plan Commission allowing a B zone in the middle of the residential area. Mr. Auvil noted the Special Use for the greenhouse seemed to be an appropriate instrument for this request, but staff's issue of concern is the scale of the request which is the reason for the Developmental Variance. There was some discussion about the sizes of the proposed structures. If these are hoop buildings, Mr. Auvil went on to say that they are somewhat temporary but still require a building permit. Mr. Campanello questioned the type of construction of the proposed structures. Mr. Auvil stated that is unknown.

If the Board were to table the request, Mr. Homan asked Mr. Long if Annie Ragland could be present to explain the business plan, and Mr. Long indicated yes. Functionally, Mr. Homan questioned if granting the Special Use without the Developmental Variance would make any sense if he would not have greenhouses. He also questioned if the home workshop/business is secondary to the residence, and if the petitioner even resides there. He went on to say that he feels this request is not secondary to the residence because this is large. Based on the Board's conversation about hoop houses, at this size, Ms. Weirick thinks they are going to be more permanent-type structures. If denied, Mr. Miller asked if the petitioner could come back with a request for something smaller. Under the home workshop/business in the Zoning Ordinance, Mr. Auvil noted the petitioner's accessory structures could be 200% percent or approximately 5,000 sq. ft. of the residence. If the Special Use is approved, Mr. Auvil stated the petitioner would need to submit an amended site plan. Ms. Weirick stated that she does not feel this is a home-based business as this is a larger scale. Mr. Homan added that he thinks a home workshop/business on this property is fine but within the parameters of the Ordinance.

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 Special Use for a home workshop/business for a greenhouse 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. A revised site plan to be submitted and approved by the Staff that is consistent with the requirements of the Elkhart County Zoning Ordinance.
2. One 4 sq. ft. sign permitted.
3. One parking space per 200 sq. ft. of the home workshop / business accessory structures.

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

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

Motion: Action: Deny, **Moved by** Robert Homan, **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 Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage in the primary structure.

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

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

10. The application of *Larry A. Miller & Alvin Jay Miller Jt Ten* for a Use Variance to allow for the construction of a second dwelling on a parcel on property located on the West side of CR 37, 437 ft. South of Railroad Street, common address of 66601 CR 37 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 #66601CR 37-150910-1*.

There were nine neighboring property owners notified of this request.

Larry Miller, 66601 CR 37, Millersburg, was present on behalf of this request. He explained that they want to build a new house behind the existing house. When Mr. Homan asked about the timeline for the project, Mr. Miller stated he talked with the construction company prior to the hearing today, and the block-layer is scheduled for the last week in October. He mentioned the only reason for a possible delay would be due to the weather getting too cold. He went on to say that financing is ready, and they would be ready to go as soon as they can obtain permits. When Roger Miller questioned the 30 day deadline to remove the existing residence, Larry Miller said the only possible hindrance may be the winter weather. He went on to say that he has spoken with someone who purchases double-wide homes and relocates them but did not know if weather would be an issue in removing the home. Attorney Kolbus reported that staff indicated if there is a contract within 30 days with an individual to move the house within a certain time period that is also acceptable.

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** Suzanne Weirick, **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 Use Variance to allow for the construction of a second dwelling on a parcel be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 9/10/15) and as represented in the Use Variance application.
2. The existing home (designated as Building C on the site plan) shall be removed from the Real Estate within 30 days of occupancy of the new residence (designated as Building A on the site plan).

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

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

11. The application of ***Lowell & Verda E. Bontrager*** for a Use Variance to allow for an existing accessory building without a residence on property located on the East side of N. Jefferson Street, 200 ft. North of Main Street, being Pt. of Lot 56 and Pt. of Lot 57 of Millersburg (Original Town), common address of 216 N. Jefferson Street in Clinton Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #216NJeffersonSt-150826-1*.

There were 24 neighboring property owners notified of this request.

Lowell Bontrager, 101 E. Main Street, Millersburg, was present on behalf of this request. He stated he resides on adjoining property to the south. To improve the neighborhood, he explained he wants to demolish a residence that has been neglected for last 20 years. As the existing garage is structurally sound, he would like to save the garage. He reported no future plans to construct anything on the property and noted other detached storage buildings in the area. He submitted a petition signed by neighbors in support of this request *[attached to file as Petitioner Exhibit #1]*. Concerning the nearby detached storage buildings, Mr. Campanello inquired if those have residences with them. Mr. Bontrager noted the one to the east on school property but indicated the rest have houses with them.

Mr. Campanello questioned if Mr. Bontrager may possibly sell the subject property in the future. Mr. Bontrager said his thought would be that he would possibly deed it together at some point and sell both of them together when he retired. Regarding Finding #4 in the Staff Analysis concerning the suggestion that the petitioner could combine the three lots on one deed, Attorney Kolbus noted it was his understanding that staff had not discussed that with the petitioner because they were not aware of the ownership situation. At Mr. Homan's request, Mr. Bontrager pointed out his residence and the subject property on the aerial photo. When Mr. Miller asked if he would consider combining the two properties, Mr. Bontrager suggested the possibility that someone may want to purchase one lot at some point in the future so that is his reason not to

combine them. Mr. Miller suggested he could split them again later. He went on to explain that the issue is that there is no residence to go with the accessory structure.

When Mr. Campanello noted that Mr. Bontrager wants to demolish the bad part and clean up the property, Mr. Bontrager noted the house was red-tagged by Health Department before he purchased it. Mr. Auvil noted Mr. Bontrager's options that would be consistent with the Zoning Ordinance. Mr. Bontrager noted the Town Council also signed the petition.

There were no remonstrators present.

The public hearing was closed at this time.

While Ms. Weirick appreciates and understands the logic behind this request, she stated if and when that parcel gets sold, it will be sold as residential. Mr. Auvil said there is no guarantee that someone would build a house on it with an existing accessory structure. Mr. Homan noted a Use Variance is the highest standards, and he does not think it meets those five standards.

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

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 Use Variance to allow for an existing accessory building without a residence be denied.

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

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

12. The application of *Christy L. & Lizzie E. Bontrager* for a Use Variance to allow for the construction of a second dwelling on a single parcel and for a Special Use for a home workshop/business for the assembly of buggies and retail sales on property located on the South side of US 20, 300 ft. West of CR 18, common address of 12084 US 20 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #12084US 20-150914-1*.

There were 11 neighboring property owners notified of this request.

Paul Hochstetler of Freedom Builders, 54824 CR 33, Middlebury, was present representing the petitioners on behalf of this request. He explained that he listed the one year time frame for removal of the existing residence because a building permit expires in one year. But he stated that once the Bontragers move in, there is nothing to keep the existing residence from being demolished. He noted that the Bontragers want to live in the old house while the new house is being built. He reported a new septic will be installed along with the proposed home, and the existing barn and shop will remain.

Regarding the Special Use, he reported there is an existing Special Use but this is a new owner. He went on to say that the petitioner wants to continue a home workshop/business there but with a different business. While the initial Special Use had some outside displays, Mr. Hochstetler reported that Mr. Bontrager will not. In addition, he said customers will come to either purchase buggy parts or a complete buggy. The business will take place in the existing building.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Robert Homan that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of a second dwelling on a single parcel be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. 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 Elkhart County Advisory Board of Zoning Appeals.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 9/14/15) and as represented in the Use Variance application.
2. The existing home shall be demolished within 30 days of occupancy of the new residence.

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

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Robert Homan that the request for a Special Use for a home workshop/business for the assembly of buggies and retail sales 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 9/17/15) 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, Suzanne Weirick.

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

14. There were no staff items.

15. The meeting was adjourned at 10:27 a.m.

Respectfully submitted,

Deborah Britton, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary