

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 17TH DAY OF SEPTEMBER 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: 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 20th day of August 2015 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Homan/Campanello*) 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 **Dale B. Jr. & Jewel Jodell Love** for a 7 to 1 depth to width ratio Developmental Variance and a 75 ft. lot width Developmental Variance to allow for the construction of a residence (Ordinance requires 100 ft.) on property located on the West side of CR 13, 2,100 ft. North of CR 30, common address of 61601 CR 13 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 #61601CR 13-150810-1*.

There were three neighboring property owners notified of this request.

Dale Love, 61601 CR 13, Goshen, was present on behalf of this petition. He said they are requesting this solely to keep the farm together as a farm as long as possible and to pass to their family for future generations. If they are required to add the 75 ft. of frontage, he reported that adds nearly 3.5 acres which could jeopardize his son purchasing the property, and in the future, the estate tax could be considerable which may jeopardize the farm for the future generation.

When Ms. Weirick inquired about the size of the farm, Mr. Love reported it is approximately 120 acres. She further inquired the amount of acreage involved in this request which he indicated is about four acres.

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

Mr. Homan inquired about the property to the south at the road, which Mr. Love reported belongs to the neighbors. When Mr. Homan asked where their driveway is located on that property, Mr. Love stated it is very close to theirs although there is a definite property line.

There were no remonstrators present.

Mr. Homan inquired if the family farms the land or if it is rented out. Mr. Love reported he has retired from farming himself but has two men who farm it. When Ms. Weirick inquired if Mr. Love's son is a farmer, he stated it is a possibility but he stated his hope is that one of his grandchildren will farm.

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** 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 7 to 1 depth to width ratio Developmental Variance 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 8/10/15) and as represented in the Developmental Variance application.

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

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

Abstain: Randy Hesser.

After further consideration and deliberation:

Motion: Action: Deny, **Moved by** Roger Miller, **None seconded** that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that that the request for a 75 ft. lot width Developmental Variance to allow for the construction of a residence (Ordinance requires 100 ft.) be denied.

Motion died for lack of a second.

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Tony Campanello that the request for a 75 ft. lot width Developmental Variance to allow for the construction of a residence (Ordinance requires 100 ft.) be approved based on the following Findings & Conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare. The end result will be as it currently exists. The existing property is for residential and agricultural use and the farm house will be replaced with a new house.
2. Approval of the request will not cause substantial adverse affect on the neighboring property. This is a parent-to-child split and the petitioners will own the surrounding property.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property as a family-owned working farm as represented.

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

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

Abstain: Randy Hesser.

5. The application of *Steve M. & Joan W. Bontrager* for a Developmental Variance to allow for the total square footage of an accessory dwelling to exceed what is allowed by Ordinance on property located on the South side of CR 42, 883 ft. East of CR 37, common address of 12800 CR 42 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 #12800CR 42-150810-1*.

There were five neighboring property owners notified of this request.

Steve Bontrager, 12800 CR 42, was present on behalf of this request and stated they want to build a second dwelling and provide care for his in-laws. Mr. Campanello inquired about the use of the structure after the parents pass away, and Mr. Bontrager reported it would revert back to an agricultural use. Mr. Bontrager pointed out the proposed location of the shop house on the aerial photo which is on the north side of the driveway. When Mr. Hesser asked staff if a dawdy house counted as an accessory structure, Mr. Auvil indicated it is an accessory dwelling which is limited to 1,000 sq. ft. of living space under the current Zoning Ordinance. He went on to say that the proposed structure is 1,740 sq. ft. which is 74% larger than allowed. Mr. Hesser noted they are lumped together but essentially two requests. The petitioner is asking to build a dawdy house that is nearly twice as big as is permitted and, after this use is discontinued, they will have significantly more accessory storage than twice the existing residence. Mr. Auvil noted that staff did not address use of the building after this need for this request goes away. Ms. Weirick said she did not think it can be addressed now anyway because too many circumstances can change. She questioned the potential to build something closer to the Ordinance requirements and noted there is a reason these ordinances exist.

Walter Lehman, 12546 CR 42, was present in support of this petition. He noted the storage area would also be where they hold church services and includes a kitchen to prepare food for those services.

Mr. Hesser asked the petitioner how hard it would be to modify the living quarters to be within the 1,000 sq. ft. limitation, but the question was not answered.

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: Deny, **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 Developmental Variance to allow for the total square footage of an accessory dwelling to exceed what is allowed by Ordinance be denied.

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 Mr. Hesser recuses himself and steps down*****

6. The application of *Baugo Community Schools, an Indiana School Corporation* for an 11 sq. ft. Developmental Variance to allow for a 111 sq. ft. sign (Ordinance limit 100 sq. ft.) on

property located on the West side of CR 3, 280 ft. South of CR 24, common address of 58903 CR 3 in Baugo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #58903CR 3-150803-1*.

There were 20 neighboring property owners notified of this request.

Randy Whiteman, US Signcrafters, 216 Lincolnway West, Osceola, was present representing Baugo Community Schools on behalf of the request. He submitted color copies of the proposed sign and site plan *[attached to file as Petitioner's Exhibit #1]*. While asking for an additional 11 sq. ft. of signage, he noted the property is enormous. He said the electronic message center on the current sign has failed, and the neighbors are even asking for new sign. He reported the proposed sign is a vast improvement over the current sign.

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** 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 11 sq. ft. Developmental Variance to allow for a 111 sq. ft. sign (Ordinance limit 100 sq. 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 7/9/15) 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, Suzanne Weirick.

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

7. The application of ***Matt & Amy Burridge (buyers) and William & Carrie Clark (sellers)*** for a 7 to 1 depth to width ratio Developmental Variance and a 50 ft. lot width Developmental Variance to allow for the construction of a residence (Ordinance requires 100 ft.) on property located on the West side of CR 43, 2,130 ft. South of CR 10, 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 #000CR 43-150817-1*.

There were six neighboring property owners notified of this request.

William Clark, 11150 W 450 N, Middlebury, was present on behalf of this request. He said they are looking to sell approximately 11.3 acres of property with a 50 ft. access to the property so they lose less hay field. When Mr. Hesser questioned the total size of the parcel, Mr. Clark reported he owns 30 acres. He pointed out on the aerial photo the areas of the property where farming is taking place.

Mr. Campanello suggested 100 ft. at the road but cut back or angle back to 50 ft. Mr. Godlewski reported the lot width at the building setback line must be 100 ft., which is 75 ft. from the centerline of the right-of-way. When Mr. Homan inquired, Mr. Clark said he does not own the small parcel to the west (rear) of his parcel. Mr. Miller questioned staff about the 100 foot lot width requirement. Mr. Auvil reported site distance and to attempt to minimize flag-pole lots, but it is a developmental standard in the Ordinance. Mr. Miller also noted possibly getting heavy equipment back there to fight a fire, it would be better to have more than 50 ft.

Jeremy Gingerich, 51153 CR 133, Bristol, was also present representing Mr. Clark and Matt & Amy Burrige as their builder. If the 50 ft. is approved, he noted the driveway will only be 14-16 ft. wide so there will still be plenty of extra room on either side of the drive. He went on to say if the lot is 100 ft. at the road and angled back to 50 ft., there would still be dead space. But suggested if that is what the Board would require, they would do that.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus recommended the variances be handled separately. Mr. Miller noted he has more and more trouble going against Ordinance requirements that people worked hard to establish, including public input. Mr. Campanello suggested a possible agreement with the landowner to farm the property if the 75 ft. lot width variance is denied. Mr. Homan noted the petitioner's request is a self-imposed hardship.

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

Motion: Action: Denied, 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 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: Denied, 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 50 ft. lot width Developmental Variance to allow for the construction of a residence (Ordinance requires 100 ft.) 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 *Kevin J. & Wendy Nice* for a 108 ft. Developmental Variance to allow for the installation of a ground mount solar array system 12 ft. from the East side property line (Ordinance requires 120 ft.) on property located on the North side of CR 126, 750 ft. West of CR 19, common address of 20643 CR 126 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #20643 CR 126-150813-1*.

There were seven neighboring property owners notified of this request.

Kevin Nice, 20643 CR 126, was present on behalf of this request. He explained they would like to place a ground-mount solar panel system behind their barn. While the Ordinance

requires 120 ft. from the property line, it was noted that the parcel is only 200 ft. wide. When Mr. Homan questioned contact with the East adjoining property owner, Mr. Nice said his father-in-law farms it. He went on to say he figured if the actual landowner had an issue with it, they would appear today.

Brian Burkholder of Solar Energy Systems, 1952 W. Market St, Nappanee, was present in favor of this request. He noted he does not understand the 120 ft. setback requirement. Mr. Hesser reported it is not the Board's rule but a rule they deal with. Mr. Burkholder noted the nearby barn with a 12 ft. setback, and mentioned a privacy fence could be placed if something were to be built on the adjoining parcel in the future. Staff confirmed the reason is esthetics and visual, including glare.

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** 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 108 ft. Developmental Variance to allow for the installation of a ground mount solar array system 12 ft. from the East side property line (Ordinance requires 120 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 8/13/15) 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.

9. The application of **Loren D. Beachy** for a Special Use for an agricultural use (keeping of horses) on property containing less than three acres on property located on the East side of Bristol Avenue, 1,240 ft. North of CR 14, common address of 614 Bristol Avenue 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 #614BRISTOL AVENUE-150730-1*.

There were eight neighboring property owners notified of this request.

Blake Doriot of B. Doriot & Associates, P.O. Box 465, New Paris, was present representing the petitioner who is also present. He submitted a petition signed by neighboring property owners [attached to file as *Petitioner Exhibit #1*]. Mr. Doriot explained the petitioner has purchased the property and would like to bring his horses to the property to use for transportation. He noted that the petitioner has three horses and would have to get rid of one horse based on the staff's recommendation. They do not believe there would be a problem with three horses on the property, and the petitioner plans to compost the manure for the garden. Additionally, Mr. Doriot stated Mr. Beachy is a school teacher, and the school is approximately two miles west so

this is a good location. Using the aerial photo, he pointed out the properties of the signers of the petition and any horses on nearby properties. When Mrs. Weirick asked if the number of horses was given in the petition for the request, Mr. Doriot said it was not which was an oversight on his part. When Mr. Hesser questioned the need for three horses, Mr. Doriot stated occasionally one horse is lame. Although there may be an occasional foal, Mr. Beachy does not intend to breed.

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 a Special Use for an agricultural use (keeping of horses) on property containing less than three acres be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 7/30/15) and as represented in the Special Use application.
2. Limited to 3 adult horses at any one time.

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

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

10. The application of *Pine Crest Farms, Inc. c/o Vernon Jay Miller* for a Special Use for an indoor recreational rental facility on property located on the Southwest corner of CR 131 and CR 33, East side of CR 131, North side of CR 34, common address of 15229 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #15229CR 34-150817-1*.

There were 21 neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering & Surveying, 1009 S. Ninth, Goshen, was present representing the petitioners. He went on to say that Stan & Elvira Miller were also present as the principals and the petitioners. Mr. Pharis explained that the Millers remodeled one of their barns over the last few years including electricity, insulation, heating, air conditioning, and a restroom. They put some tables inside and have been using it for family get-togethers such as birthdays and anniversaries. Friends and family have asked to rent it, but the petitioners were reluctant to do that without knowing that it would be legal. He further explained this is not going to be a full time business for the petitioners who are farmers. This facility would be for use by friends, neighbors, and their church for social gatherings. He noted that there will be no food preparation on-site, and any rental would be required to use a licensed caterer to prepare food and bring it on-site. He went on to say that they have refrigeration but not a food preparation area. Additionally, he noted the signed petition included with the questionnaire which neighbors have signed in agreement with the request.

When Mr. Hesser questioned the maximum number of 150 people, Mr. Pharis stated that is based on the ability to park with approximately 60-70 spaces on the gravel section. He noted the ability to add extra parking during warmer weather in the grass area as well. Mr. Hesser pointed out this is a large parcel at 144 acres. When Mr. Homan expressed concern about the issue of septic, Mr. Pharis stated that was addressed with the Environmental Health Department previously.

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 Special Use for an indoor recreational rental 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 8/17/15) and as represented in the Special Use application.

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

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

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

11. The application of *Lee & Pamela J. Adams (buyers) and Mikel & Linda Wagner (sellers)* for a Special Use for an animal rescue (cats) on property located on the South side of CR 24, 500 ft. West of CR 11, common address of 25138 CR 24 in Concord Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #25138CR 24-150817-1*.

There were six neighboring property owners notified of this request.

Lee Adams, 59528 CR 9, was present on behalf of this request with his daughter, Jennifer Gillespie, who is heading-up the project. He stated they recently purchased the property from the Wagners so they are now the property owners. By the acreage, he stated the property lends itself to be within the requirements of the county for doing such a project. Using the aerial photo, he pointed out the building to be used for the proposed project. He reported the building will be retrofitted with heating, air conditioning, and utilities. If approved, he noted he intends to follow up with Environmental Health to meet their requirements for a sink and restroom. Additionally, he noted the building does have sufficient space for this project, and it will be a self-enclosed operation.

Jennifer Gillespie, 25138 CR 24, Elkhart, was present as the President of Here Kitty-Kitty Rescue. She wanted to assure those present that this is a small, quiet rescue which is a 501C3 non-profit organization. She noted they will follow the operational guidelines provided

by the International and American Humane Society such as the number of cats per space requirement which is one cat per 20 square feet. Although the facility is 1,800 sq. ft., the organization has placed a limit themselves to no more than 50 adult cats and some kittens. She reported all cats will be contained within the facility. She noted the renovated barn facility will provide heating, air conditioning, adequate lighting, sewer arrangements with water, and a proper ventilation system to assure that no foul odor will emit from the facility. She went on to say that all trash and waste will be routinely removed from the property to prevent such odors. Ms. Gillespie reported that no feral cats are part of this program, and a Wakarusa veterinarian has agreed to make personal visits to the facility to assist in maintaining a healthy environment for the cats. Additionally, she stated all cats three months of age and older are spayed and neutered, vaccinated for rabies, are current on all vaccinations, and are fully tested for feline leukemia and FIV. This is a no-kill shelter but in the unfortunate event that euthanasia is required of any cat, it will be taken to the vet to be properly disposed of.

In Elkhart County, there is a great need for a no-kill shelter with their organization having almost 2,000 followers in the area. She reported they get approximately five calls per day seeking assistance. To help fund this organization, she stated they are currently applying for grants, and they charge an adoption fee of \$50 to help with the incurred costs of the animals' care. She also indicated they have an annual garage sale to help raise monies. Pet Supplies Plus has given them the opportunity once a month to set up and conduct adoptions and an area where cats are viewed daily by the public.

When Ms. Weirick inquired how long the organization has been in existence, Ms. Gillespie reported three years. With the slow gradual growth they have experienced, they decided at the beginning of the year to become 501C3 non-profit to get a facility to house the cats instead of having them in foster homes for ease in caring for the cats properly in one location. Ms. Weirick further asked if this organization has a relationship with the Elkhart County Humane Society. Although the Humane Society is a kill-shelter, Ms. Gillespie reported the Director is aware of their organization and has asked if Here Kitty-Kitty could pull from the Humane Society. However, Ms. Gillespie reported they cannot always do that. If they should ever have spaces available, she reported they would be happy to contact the Humane Society. When Mr. Miller inquired, Ms. Gillespie reported they will have no drop-offs. When Mr. Homan asked for clarification about who resides on the subject property, Ms. Gillespie reported she lives there and will remain on-site.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Robert Homan, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an animal rescue (cats) 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 8/17/15) 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.

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

12. The application of ***Timothy W. & Monica S. Miller (buyers) and Hoosier Holdings, LLC, an Indiana Limited Liability Company*** for a Use Variance to allow for the construction of an accessory structure prior to the construction of a residence on property located on the East side of CR 19, 900 ft. South of CR 36, in Elkhart Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #00000CR 19-150817-1*.

There were four neighboring property owners notified of this request.

Adlai Schrock, 2325 Messick Drive, Goshen, was present as the broker representing the seller, Dale Weaver.

Tim Miller, 1728 Greenwood Drive, Goshen, was present on behalf of this request as the potential buyer of the property. As they currently reside in a neighborhood where no accessory buildings are allowed, they would like to construct a storage building prior to a residence as a place to store their woodworking equipment and belongings. He went on to say that they would like to continue raising their youngest child in their current residence before building a residence on the subject parcel which is four acres. When Mr. Miller inquired about a possible woodworking business, Mr. Miller stated it is a hobby. Ms. Weirick questioned future building, and Mr. Miller stated, at this point, they have no set time frame to develop the residential portion of this property. He noted their current residence has a pool, and they want to finish raising their children there so they are not ready to move yet.

When Mr. Campanello questioned Mr. Schrock's involvement, Mr. Miller stated Mr. Schrock is developing the property. Mr. Schrock added that he is only doing the parcel that Mr. Miller is interested in. When Mr. Hesser asked if this is an existing parcel, Mr. Schrock explained it is a 20 acre parcel. Mr. Schrock, showed the Board an aerial photo *[attached to file as Petitioner Exhibit #1]* indicating the 20 acre parcel and proposed division. As they are marketing this property, Mr. Schrock said they have discovered a demand for accessory buildings. Mr. Hesser confirmed with Mr. Miller that he is not ready to make a commitment as to when the house would be constructed. Mr. Miller added that on the Northeast corner of Greene Road and CR 36, there is an existing accessory building without a residence.

There were no remonstrators present.

The public hearing was closed at this time.

While he does not have an issue with the long-term plans for the subject parcel, Mr. Hesser stated he has a problem dealing with it on a hypothetical basis. But there is no commitment to build a residence within any period of time whatsoever. Mr. Homan noted the exceptions are around lakes where the lot is across the street or something peculiar to the land. He went on to say that there is nothing peculiar about this property for that kind of consideration.

The Board examined said request, and after due consideration and deliberation: **Motion: Action: Deny, Moved by** Randy Hesser, **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 an accessory structure prior to 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.

13. The application of **John C. Babcock** for a Use Variance for warehousing and storing of recreational vehicles on property located on the South side of SR 120, 983 ft. East of CR 131, common address of 15066 SR 120 in York Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #15066SR 120-150810-1*.

There were nine neighboring property owners notified of this request.

John Babcock, 15066 SR 120, was present on behalf of this request. Acknowledging the subject property is in a residential area, he noted his property is three acres total but the back portion which he would be using is 1 ½ acres. He went on to say that he is not a big transport company with only eight trucks that run to California, Oregon, and Washington. He reported that he talked to the surrounding neighbors with no one voicing any objections. He stated the proposed RV storage area is way back behind the house and is not visible from the road as it is pretty much surrounded by trees. When Mr. Campanello questioned the number of trailers that would be parked at one time, Mr. Babcock reported 10-15 at the most, noting that the last few months have been slow. At his current location presently, he said he believes he has three units. Most of the time, he reported the units go in and out pretty quickly. He stated there would be no truck traffic from the subject property during the nighttime hours but during the daytime only. He stated this request would make it possible for his business to be self-contained without having to rent other property. He said his business will not increase any larger than it is right now with eight trucks and eight drivers as he has no desire to expand. When Mr. Homan inquired about the type of trucks, Mr. Babcock reported they are one ton duallys. Mr. Hesser confirmed that Mr. Babcock owns the trucks, but the employees take them home.

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: Deny, Moved by Suzanne Weirick, **Seconded by** Randy Hesser that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance for warehousing and storing of recreational vehicles be denied.

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

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

No: Tony Campanello.

14. SHOW CAUSE HEARING – The requested rescission of Special Use # 20566US Highway 6-120424-1, Petitioners James H. Boyer (land contract holder) and Terry A. Miller

(land contract buyer), for property with the common address of 20566 US Highway 6, Milford, IN 46542, for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals came on to be heard.

Mr. Auvil reported that the petitioner failed to complete the recorded commitment for the Special Use for chickens with various reminder letters being sent. After a final letter was sent in July 2015, staff eventually made contact the petitioner who stated they got rid of the chickens when the bird flu hit. He also suggested there were communication issues between the land contract holder and property owner.

No one was present for the hearing.

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 adopt the staff's recommendation to rescind and revoke the Special Use.

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

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

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

Mr. Hesser noted this item was tabled from last month's meeting.

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

Attorney Kolbus noted the revised site plan is dated 09/02/15.

Mr. Hesser recalled that at the previous hearing there were many unknowns about this request such as which floor they were going to utilize for the business, square footage, parking spaces, sign, and truck turnaround which seem to be answered on the revised site plan.

Carolyn King, 10871 SR 120, was present on behalf of this petition. After calculating the total square footage of the building, she reported they will use both floors of the building since they are allowed to do so with retail space on the main floor and storage on the second floor. She indicated they are going to move the sign, which will be 2'x2', back out of the right-of-way. She went on to say they changed the parking spaces to meet the requirement and added a semi turnaround.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Robert Homan that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request For a Special Use for a home workshop/business for a dent and bent and surplus store 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 9/2/15) and as represented in the Special Use application.

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

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

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

17. The first staff item was for the Elkhart County 4-H Fairgrounds which was presented by Mr. Auvil as a site plan amendment for an existing Special Use (approved 06/29/73). He said they are requesting a minor change to demolish and rebuild the dairy feeder club annex building. He noted a site plan was received on September 1, 2015, from Barry Pharis of Brads-Ko Engineering.

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 approve the request as a minor change to the existing Special Use permit.

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 Ms. Weirick steps down at this time.*****

18. The next staff item was for Ernest E. & Laverda M. Yoder Trustees of the Yoder Family Revocable Living Trust of July 22, 2002 – 12292CR 20-140224-1 - as presented by Mr. Auvil. He stated this is an existing Special Use for a home workshop/business for bike repair and sales approved 03/20/14. The request is for a minor change to a site plan to construct a 28'x36' accessory structure for personal storage. Mr. Auvil noted this storage is not related to the petitioner's business, but it is still adjusting the approved site plan. When Mr. Homan asked if the square footage exceeds the Ordinance, Mr. Auvil stated the request is within the Ordinance guidelines.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board approve the request as a minor change to the existing Special Use permit.

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

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

Absent: Suzanne Weirick.

*****It should be noted that Ms. Weirick returns to the Board.*****

19. The last staff item was presented by Mr. Auvil for Michael E. & Denise C. Murphy – 0000CR 19-0150313-1. He stated the request is for a minor change to a site plan for a Use Variance (approved 04/16/15) to flip the structure footprint, slightly increase part of the floor plan dimensions from a 30'x60' to a 32'x62' in order to maximize standard lumber dimensions,

and to add a 12'x20' open covered porch. When Mr. Miller questioned if it still meets variance requirements, Mr. Auvil stated that was correct. Mr. Hesser noted the set back on the North property line is farther in the revised site plan than the previously approved site plan. Mr. Auvil reported there is no change in use from the previous approval.

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 approve the request as a minor change.

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

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

20. Chris Godlewski introduced Tasha Dennis as a new part-time employee through the end of the year working on some special projects.

21. The meeting was adjourned at 11:02 a.m.

Respectfully submitted,

Deborah Britton, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary