

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 15TH DAY OF DECEMBER 2016 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Chris Godlewski, Plan Director; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

2. A motion was made and seconded (*Miller/Lyon*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of November 2016 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/Lyon*) 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 ***Peter & Giwon Kim*** for a Developmental Variance to allow for a residence on a property with no road frontage served by an access easement located on the West side of CR 8, 3,215 ft. North of CR 12, common address of 54595 CR 8 in York Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0641-2016*.

There were seven neighboring property owners notified of this request.

Nick Wise, RE/MAX Results, 2134 Elkhart Rd., Goshen came on representing this petition, and stated the property is being sold. He continued saying the buyers are requesting this property be subdivided, and he stressed their purchase agreement is contingent on approval of this petition. Mr. Wise submitted a color aerial outlining the property and the acreage they wish to split off [Attached to file as Petitioners Exhibit #1]. Mr. Miller questioned if the petitioners live on the property, and how they access their home. Mr. Wise responded they do, and it is accessed by a drive in the middle of the property, which would be written into a maintenance agreement with the new owners. Mr. Campanello questioned the location of the drive, and Mr. Wise confirmed its location on the aerial. Mr. Hesser questioned if the outlined parcel is the entire property or the section to be divided off, and Mr. Wise stated the outlined portion is the entire parcel. Mr. Hesser also questioned what area will be split off. It was found a site plan was submitted showing the two proposed parcels, but the copies in the packets made it difficult to see. Attorney Kolbus requested the petitioner outline the section to be divided off, and the petitioner pointed out the parcel on the aerial. Mr. Lyon questioned the size of the parcel requiring an access easement, and Mr. Wise responded it will be 12.4 acres. Mr. Wise stressed the proposed property lines were based on natural boundaries, such as a field that is farmed, existing fencing, and the buyers desire to access the lake. Mr. Hesser questioned if the petitioners could add a sliver of land along the Northern edge of the property with road access, but use the existing

drive. Mr. Godlewski responded if the parcel acquired adequate road frontage, it would then only be subject to a 7 to 1 Developmental Variance. Attorney Kolbus clarified the petitioners could not be forced to use that property to the North as their drive. Mr. Miller stated he believes requiring 100 ft. road frontage would be a reasonable proposal and questioned if the petitioners would be open to that arrangement. Mr. Wise stated it would be difficult as acquiring 100 ft. to the North would still cut through the larger property as the owners of that property would like to have access to the lake. Mr. Hesser responded saying the 100 ft. stretch could be anywhere along the road, and Mr. Miller suggested placing road frontage along the existing drive. Mr. Wise stated the new owners would be against placing road frontage around the drive as they would like to use it for their future home. He also added the farmer would then need to cross their property to have access to the field to the North.

Roger Hoffman, 54235 CR 8, the neighbor to the North of the subject property came on in remonstrance. Mr. Hoffman pointed out his 45 acre property on the aerial and stated he owns 2/3 of the pond. He continued saying he is against this Variance, because he built a new house in 2009 and was required by the Board to buy road frontage for his property. He stressed if his petition had been approved he would only own 15 acres, but he now owns 45 acres due to the road frontage requirements. Mr. Hoffman emphasized this property should be held to the same standards as his was back in 2009. He also stated he does not wish to have a third person involved with upkeep of the pond and stated he pays for maintenance of the pond along with his current neighbors. He continued saying the third owner will only own 35 ft. frontage of the pond and will not be required to contribute to the maintenance if they do not enter into an agreement. Mr. Hoffman went on to stress this is a nice area, and he does not wish to see this property turned into a subdivision. He also does not believe this property meets the criteria required for approval. Mr. Hoffman stated the neighbor to the South was unable to attend but sent an email in remonstrance submitted to the Board [Attached to file as Remonstrator Exhibit #1]. Mr. Lyon questioned how many feet of road frontage Mr. Hoffman was required to buy in order to build his home, and he responded he believes 100 ft. Mr. Hesser clarified Mr. Hoffman bought the entire parcel with road frontage not just the 100 ft. he was required to acquire. Mr. Hoffman closed by stressing approval of this petition will affect him in some way.

Randy Troyer, 54655 CR 8, the neighbor to the front of the subject property, came on in remonstrance. Mr. Troyer stated his concern is if approval is given then the property might be further subdivided. He stressed he does not wish to have a home built behind him. Mr. Wise came back on and was given an opportunity to read the remonstrance email submitted by Mr. Hoffman. He then stated he understands why the neighbors are worried about the property being subdivided, but he also assured them that is not the buyers' intention. He stressed the purchasers wish to enjoy this land just as the neighbors enjoy theirs. He also believes a hardship will be imposed on the sellers as they have a purchase agreement dependent on approval of this petition. Mr. Wise stressed the neighbors have had a chance to purchase this property for seven and a half months, and some neighbors were even approached before the sale went public. He also believes denial of this request will create a hardship as it is difficult to sell a property of this size. Mr. Lyon questioned if the proposed parcel seeking approval for an access easement will remain in the current ownership. Mr. Wise responded the buyers will purchase the entire property, and they already have a purchase agreement on the property with the residence.

The public hearing was closed at this time.

Mr. Campanello questioned if commitments and conditions can be added to a Developmental Variance, and Mr. Godlewski responded they can be added. Attorney Kolbus stressed the hardship Mr. Wise implied deals with the people involved not the property. Mr. Miller stated he is inclined to deny this request, allow the petitioners to add the required road frontage, and then come back before the Board for a 7 to 1 Developmental Variance. Mr. Campanello clarified when Mr. Hoffman came in 2009 the rule was 3 to 1 rather than 7 to 1. Mr. Hesser stressed this hardship is self-imposed, and he believes this property can be divided without needing this Variance or a 7 to 1 Developmental Variance.

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 a residence on a property with no road frontage served by an access easement be denied.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Deny Lyon, Randy Hesser.

5. The application of *Jesus & Maricela Quezada* for a 2,170 sq. ft. lot area Developmental Variance to allow for the construction of a residence on proposed Lot A (Ordinance requires 20,000 sq. ft.) and for a 2,170 sq. ft. lot area Developmental Variance to allow for the construction of a residence on proposed Lot B (Ordinance requires 20,000 sq. ft.) located on the North side of CR 40, 1,054 ft. West of CR 31, in Elkhart Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0616-2016*.

There were five neighboring property owners notified of this request.

Mr. Lyon questioned why the site plan shows only 30 ft. road frontage access when 40 ft. is required. Mr. Godlewski stated the drawing came from the surveyor who is proposing the subdivision for January.

Bernie Feeney, 715 South Michigan, South Bend, was present representing the petitioners. Mr. Feeney stated the petitioners have owned this property since 2004 and are seeking this variance in order to allow their daughter to build on one of the proposed lots. He stressed their daughter and son-in-law have a contract with Granite Ridge Builders pending approval. He also stated a minor subdivision has been submitted for the January Plan Commission Meeting. Mr. Miller questioned if Mr. Feeney has any concerns with the conditions imposed by staff.

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 a 2,170 sq. ft. lot area Developmental Variance to allow

for the construction of a residence on proposed Lot A (Ordinance requires 20,000 sq. ft.) and for a 2,170 sq. ft. lot area Developmental Variance to allow for the construction of a residence on proposed Lot B (Ordinance requires 20,000 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 180 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 11/3/16) and as represented in the Developmental Variance application.

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

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

No: Denny Lyon.

6. The application of *Amos M. & Naomi M. Zimmerman* for a Special Use for a home workshop business for a produce stand on property located on the North side of CR 138, 1,170 ft. West of CR 11, common address of 25227 CR 138 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0608-2016*.

There were five neighboring property owners notified of this request.

Amos Zimmerman, 65410 CR 11, Goshen, was present representing this petition. Mr. Miller questioned if Mr. Zimmerman is only requesting to build a produce stand, and Mr. Zimmerman responded a house and horse barn have already been approved. Mr. Campanello questioned the present stand's location, and if the stand is simply moving. Mr. Zimmerman confirmed he is moving his current stand to his new home. Mrs. Weirick questioned if the house has already been approved, and it was found the house is permitted by right. Mr. Miller questioned if Mr. Zimmerman had any questions with the conditions or commitments imposed by staff, and Mr. Zimmerman responded he does 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** Roger Miller, **Seconded by** Denny Lyon 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 produce stand 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 11/2/16) and as represented in the Special Use application.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

7. The application of ***Rudy & Jolisa Helmuth*** for a Special Use for warehousing and storing of RVs on property located on the North side of CR 4, 3,143 ft. East of SR 13, common address of 10627 CR 4 in York Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0642-2016*.

There were 16 neighboring property owners notified of this request.

The petitioner was not present at the beginning of the hearing, Leroy Chupp came on later representing this petition. Due to having several remonstrators in attendance, the Board allowed them to speak without the petitioner present.

Sam Armington, 10590 CR 4, directly across from the petitioners' property was present in remonstrance. Mr. Armington stated the neighbors have multiple concerns such as: the Helmuths have no set plan in place, they live on a narrow county road, children walk up and down the road frequently, there is no turn around for trucks, and they purchased their homes for the quiet location. He stressed safety is a big concern as Elkhart County is known to have a meth problem, and a trailer park which he believes houses many meth addicts is located at the end of their road. He went on to say empty RVs cause a huge temptation for people to break into. He also stated the Helmuths have proposed a gated entrance, but no fence around the RVs. He stressed RVs are typically surrounded by a fence for a good reason. Mr. Armington stated the wooded area where the trailers are to be parked funnels noise to his house. He stressed trailers have been stored in the vicinity, and he can hear them being moved from inside his home. Mr. Miller questioned if Mr. Armington was aware staff has recommended only 12 units be allowed on the property at one time. Mr. Armington stated he was not aware as Mr. Helmuth told him he could not guarantee how many units he would store on the property. Mr. Hesser questioned if Mr. Helmuth is storing recreational vehicles or mobile homes, and Mr. Armington responded single axle travel trailers. He continued saying mobile homes have not been stored on the property. Mr. Miller questioned if the property is currently being used as storage until the trailers are transported or as an area to park RVs during the winter. Mr. Armington stated it is being used as a loading zone where trailers are held until they sell and are moved. He also stressed this will be a business. Mr. Lyon questioned who owns the property in the front, center of the petitioners' property, and if the property is fenced in. Mr. Armington stated the Helmuths sold that property, but the owner is going into business with them. He continued saying he told Mr. Helmuth if the travel trailers are placed in the back of the property he would not be opposed to this petition. However, Mr. Helmuth does not want the trailers close to his home.

Kelly Gordon, 10457 CR 4, the property to the east of the subject parcel, was present in remonstrance. Mrs. Gordon stated she is concerned with noise, and she stressed her family moved here in September to escape the busy area they lived in. She also added she is worried about the resale value of their property if this turns into more than just a storage facility. Mrs. Gordon continued saying she works for a RV manufacture and sees the trucks which move the RVs. She stressed the trucks are large, diesel trucks with an auxiliary fuel tank. She also added RVs are winterized with antifreeze, and she is concerned with ground contamination. Mrs. Gordon went on to say as Mr. Armington mentioned RVs have already been on the property. She stressed her son's bedroom is close to the Helmuths' property, and the RVs are moved

during her son's nap time. She requested, if this is approved, a fence/berm be installed to block noise and site, hours of operation restrictions, and the ground be tested for contamination.

Brian Wilson, 10760 CR 4, came on in remonstrance and stated he believes approving this petition will put a huge burden on taxpayers. He went on to stress CR 4 is a noncommercial road, and he questioned if turn lanes would be added or the roads widened to accommodate commercial trucks. He stated he believes the added road maintenance from having commercial vehicles on a residential road will be unfair to taxpayers. Mr. Wilson continued saying an environmental issue arises from trucks idling to refuel. He also has a security concern as drivers will be sleeping in their trucks waiting to be loaded. He stressed this area is residential not industrial. He questioned if this property is rezoned if it could be sold to someone else, and Mr. Miller responded this request is for a Special Use not a Rezoning.

Leroy Chupp, 69943 CR 41, Syracuse, was present representing the petitioners and stated he does repair work for Mr. Helmuth with his other businesses. He stated the company Mr. Helmuth is working with has a large yard in Goshen, but this property will be used to store the smaller units built in White Pigeon on a temporary basis. He stressed this will not be a large yard, which is why he is not planning to put up a fence. Mr. Chupp suggested the Special Use be approved on a yearly renewal basis. He continued saying if the neighbors are concerned with RVs being located in the front portion of the property, they can be stored in the back area. Mrs. Weirick questioned if the trailers would be moved to the Northwest corner of the property, and Mr. Chupp pointed out the proposed location on the aerial. Mr. Hesser questioned where the current driveway is located. Mr. Chupp responded it is on the narrow side of the parcel and a farm drive is located on the wider side. He went on to point out a location in the middle of the property for storing RVs which he believes would be 700 ft. away from any other property.

Linda Casey, 10780 CR 4, came on in remonstrance. Mrs. Casey stated she realizes the Helmuths own a large piece of land. However, she believes if this is approved for 12 trailers, he could store more trailers without anyone knowing. She also stressed CR 4 has a sign stating no trucks are allowed and questioned how trucks will be allowed to transport the RVs.

The public hearing was closed at this time.

Mrs. Weirick stated she believes this petition has been heard fairly as the petitioners had a representative present. She also stated she is concerned with commercial trucks on a residential road especially during winter when roads are slick. Mr. Miller stated this petition is for warehousing and storing, but he believes this will be a transportation business. Mrs. Weirick stated having a friend park his RV on the property during the winter is very different from storing several RVs on site for transportation. Mr. Campanello stated CR 4 is a windy road, and he mentioned the Board recently approved a storage area to the North with the commitment that no trucks could access it by CR 4. He stressed this petition brings up the same concern as it is a very narrow lake road, and there is no alternate route for these trucks to take. Mr. Miller stated he is not in favor of this petition as he believes this request is for transportation and not warehousing and storing. Mr. Hesser questioned if transportation is a separate category from warehousing and storing, and Mr. Godlewski confirmed it is separate. Mr. Lyon stated he believes an accurate site plan is needed.

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

Motion: Action: Deny Moved by Suzanne Weirick, **Seconded by** Roger Miller that this request for a Special Use for warehousing and storing of RVs in an A-1 District be denied based on the Findings and Conclusions of the Board:

1. The Special Use will be consistent with the spirit, purpose and intent of the Zoning Ordinance. A Special Use for warehousing and storing is allowed in the A-1 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a large, 30.89-acre parcel that is buffered.
3. The Special Use will not substantially serve the public convenience and welfare, because the truck traffic will cause safety concerns.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

8. The application of *Douglas G. & Kristi J. Penner* for renewal of a Special Use for a home workshop business for automotive and truck mechanical repair on property located on the North side of CR 38, 1,575 ft. East of CR 33, common address of 14695 CR 38 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0610-2016*.

There were eight neighboring property owners notified of this request.

Doug Penner, 14695 CR 38, was present representing this petition and stated he is seeking renewal for an existing Special Use. Mr. Penner continued saying this Special Use was approved four years ago, and he is not requesting any changes to the current conditions and commitments. He also stated he intends to continue operating business as he has during the past four years. He requested that his four year renewal be extended, and Mr. Hesser stated the staff recommendation eliminates the renewal requirement. Mr. Miller questioned how long this business has been run, and Mr. Penner responded since July of 2012. Mr. Miller also questioned if another business was previously run off of that location. Mr. Penner stated he purchased the property from Mike Yoder who used it as a personal maintenance shop. Mr. Hesser questioned if he has received any objections or complaints, and Mr. Penner responded he has not heard any. Mr. Miller commented he has driven by several times, and it is always kept very clean.

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 renewal of a Special Use for a home workshop business for automotive and truck mechanical repair 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 conditions were imposed:

1. Approved in accordance with the site plan submitted (dated 11/3/16) and as represented in the Special Use application.

2. Approved for automotive and truck mechanical repair only with no body work or painting of vehicles.
3. Limited outside storage at any one time of up to six vehicles on the existing concrete parking slab on the north side of the shop building as shown on the site plan.
4. No backing out onto any county road by any vehicles related to said mechanical repair business.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

9. The application of ***Bethel Missionary Church*** for an amendment for an existing Special Use for a church to change the site plan (to add a playground, pavilion, volleyball court, etc.) on property located on the West side of CR 7, 2,740 ft. North of CR 36, common address of 63473 CR 7 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0599-2016*.

There were six neighboring property owners notified of this request.

Randy Myers, Interface Architecture, 57190 Alpha Dr., Goshen, was present representing this petition. Mr. Meyers stated the property is outlined in black and includes a parsonage. He stressed this is a long standing church facility originally approved in 1875. He continued saying the property to the North and West were recently added to house a mound system. Mr. Myers stated the church was offered some playground equipment from a closing school, and that started a discussion on recreational area. Mr. Meyers pointed out the proposed locations for the recreational areas on the aerial. Mr. Hesser questioned the future picnic shelter location, and Mr. Myers pointed out the location on the aerial.

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 for an existing Special Use for a church to change the site plan (to add a playground, pavilion, volleyball court, etc.) 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 10/31/16) and as represented in the Special Use application.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

10. The application of ***Jackie R. & Mary K. Dodson (Sellers) and Ryan A. Mishler (Buyer)*** for a Special Use for a home workshop business for seamless guttering on property located on

the North side of River Dr., 602 ft. West of CR 115, common address of 23731 River Dr. in Concord Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0635-2016*.

There were eight neighboring property owners notified of this request.

Ryan Mishler, 23731 River Drive, Goshen, the new owner of the property, came on representing this petition and clarified the petition is under Jackie & Mary Dodson, the owners at the time. Mr. Mishler stated he is requesting to use the secondary garage to store materials for his gutter business. He stressed actual business will not be conducted on the premises, and all work will take place on the work site. He also stated a truck similar to a UPS truck will be making deliveries once or twice a week. He continued saying the driver would be able to back up, have an access code, and unload the materials directly into the garage. Mr. Mishler stated he has talked to their Home Owners Association and gained approval through them. He continued saying a legal agreement has been drawn up stating they will have no outside storage or semi deliveries. He also added customers do not come to his home, and he will not need parking for extra vehicles. Mr. Campanello questioned if Mr. Mishler makes the gutters on his job site, and he responded he makes them in his box truck. Mr. Campanello also questioned if the box truck would be parked inside the building. Mr. Mishler responded currently it is parked in front of the garage, but he has plans to raise the roof on his garage to accommodate the truck. He also stressed his Home Owners Association has given approval to park the truck there, but he also understands no one wants to look at the truck. Mr. Hesser questioned if a turn-around area is available for the UPS truck, and Mr. Mishler pointed out an area where the truck could turn around. Mr. Campanello questioned if the trucks deliver aluminum coils, and Mr. Mishler responded yes. Mr. Campanello stated the Board is concerned about semi truck turn-arounds, but he believes UPS deliveries are normal in that area. Mrs. Weirick clarified a legal agreement stating no semis will deliver to the property was signed by the Home Owners Association.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Weirick mentioned Mr. Mishler has already checked with the Home Owners Association. Mr. Lyon commented the Home Owners Association has already approved.

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 a home workshop business for seamless guttering 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 11/14/16) and as represented in the Special Use application.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

11. The application of *Austin & Daina Heflin* for a site plan amendment to an existing Special Use for a wedding venue to allow for an existing barn to hold the weddings and an existing potting shed to be used as a bride's changing room on property located on the North side of CR 36, 290 ft. East of CR 15, common address of 22889 CR 36 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0639-2016*.

There were 14 neighboring property owners notified of this request.

Mr. Campanello questioned commitment #3, and Mrs. Weirick questioned if the current sign meets the requirements. It was found the sign pictured in the staff report is located on the property across the street. Attorney Kolbus requested the petition be explained. Mr. Godleswki stated the original petition shows two new buildings to be put up for the weddings, but the petitioners are now asking to use an existing barn.

Daina Heflin, 22889 CR 36, was present representing this petition. Mrs. Heflin stated they were originally approved to put up two buildings on the property to house an event center, but their pre-approved loan fell through at the last minute. She stressed at that point they needed to use their current funds and were advised to bring the barn up to code to house the weddings. She continued saying Randy Myers from Interface will be helping them submit this project for state approval. Mrs. Heflin stated they have also been in contact with their caterers to ensure they remain comfortable using the barn, and they have all approved. She continued saying they have tried to make sure this is a nice place for both the brides and their caterers. She also stated their neighbors to the East, Mr. & Mrs. Galen Brubaker, are still in favor of this petition but were unable to make it to the meeting due to road conditions.

Ryan Mehl, Mehl & Mehl Attorneys at Law, 222 N. Main St., Goshen, representing Jackie Hackney, 63954 CR 15, the neighbor to the West, was present in remonstrance. Mr. Campanello requested Mr. Mehl point out Mr. Hackney's property on the aerial. He then also pointed out the area approved for the two proposed buildings, which is separated from most of the surrounding homes. He stressed using the barn as their venue will bring the weddings much closer to the neighbors. He continued saying the entrance to the barn is elevated and lines up directly with the Hackneys' home. Mr. Mehl stated the original petition was approved knowing the weddings would not go past midnight, and he stressed Mr. Hackney will not be up until midnight. He questioned why the petitioners' interest should trump the interest of Mr. Hackney. Mr. Mehl also stressed at the original hearing it was implied a vinyl fence would be installed, but a wooden fence was installed. He stated the Heflins have not completed what they originally said, and he questioned why they should be granted additional rights. Mr. Campanello requested Mr. Mehl list everything the Heflins have not completed. Mrs. Weirick stated all she has heard so far is the fence is not vinyl. Mr. Mehl responded the fence is not vinyl, the two additional buildings were not built, and they have already held weddings in the barn. Mr. Mehl stressed the petitioners were not allowed to hold weddings inside the barn, because they were only granted permission to hold weddings in the buildings which were never built. Mr. Miller stated the description of the code violation says the petitioner was to put up a vinyl fence and installed a poorly constructed wooden fence. Mrs. Weirick questioned if the Board has ever stipulated that a fence must be vinyl, or if the Board simply stipulates a fence must be installed. Mr. Hesser

stated the questionnaire represents a vinyl fence. He also requested to look at the original file, and the file was passed between the Board members. Mr. Mehl stated the slide show presented at the last hearing also represents a vinyl fence. Mr. Campanello stated a vinyl fence is not listed as a commitment, and Mr. Godlewski stated it was represented in the testimony. Mr. Mehl stated the slide-show again references using long lasting materials such as a vinyl fence. He also stressed this barn is on the historical registry, and the petition did not originally want to alter the existing structures. He continued saying the petitioners' plans have change dramatically since the original petition, and he believes the barn is a fire hazard as no sprinklers have been installed yet. Mr. Mehl stated Goshen has many wedding venue options and listed a few. He mentioned The Farm House in Nappanee, a barn wedding venue, is located away from any houses. He also stated music, drinking, and partying takes place at weddings, and this amendment will move those activities closer to Mr. Hackney's property.

Jim Flora, 63945 CR 15, the neighbor to the West of the barn on the other side of CR 15, was present in remonstrance. Mr. Flora stated he still has the same concerns as when the original petition was granted. However, now that the barn is going to be used he is now concerned with the possible safety hazards it presents. He continued saying he is worried about the barn catching fire during a reception. He also stated the barn entrance is raised causing noise to filter onto his property. Mr. Flora stressed the neighbors previously opposed to this petition are still opposed to this request and concerned with added traffic, noises, etc.

Mrs. Heflin stressed no events have been held on the property, because the property is not ready. She also stated as far as fencing, they chose to go with a wood fence, because they wanted to use materials that would last. She continued saying every fence company they received an estimate from stated due to being in a large field, wind will throw rocks through the vinyl fence. She also stressed this issue has already been addressed and approved by the Building Department, who determined an amendment was not needed to deal with the fence. Mrs. Heflin stated they tried their best to buffer the noise, and a fence/tree line goes along the West end of the property. She stressed the driveway and parking lot will not change with this amendment. Mr. Hesser questioned if the barn will be used to hold both weddings and receptions, and Mrs. Heflin responded that has been the plan since the beginning. Mr. Campanello questioned if the barn needs to gain state approval due to being so old, and it was found the barn will need to go through state and obtain a state release. Mr. Miller stated a note in the file says Kevin will need to receive a state release. Mr. Campanello also questioned if an entrance can be installed on the opposite side of the barn. Mrs. Heflin responded the opposite side of the barn does not have a hill up to the second story, and the first story will not be used for the weddings. She continued saying fire exits will be installed to the rear of the barn and the front West corner. Mr. Campanello suggested having Mr. Myers look into a way to move the entrance to the East side of the barn. Mrs. Weirick stated two years have passed since approval with no weddings taking place and questioned if another commitment for a two year renewal before the Board would be an issue. Mrs. Heflin responded she does not have a problem with another renewal in two years, and their grand opening is planned for April with a wedding scheduled in May. Mr. Miller questioned if any weddings have taken place, and why a picture was submitted showing a wedding in the barn. Mrs. Heflin responded they posed pictures with brides last year for their website. She continued stressing no events have taken place, but some

family pictures have been taken on the property. She also added she is pictured in some of the photos as further proof they were staged.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he understands that financing falls through and plans change, and he suggested leaving the original commitment requiring a two year renewal. He stressed parking is still in the same area, and the buildings in the Southeast portion of the property are still planned for future expansion. Mr. Campanello questioned the change from the original petition, and it was found commitment #4 calling for the two year renewal was removed

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Denny Lyon 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 site plan amendment to an existing Special Use for a wedding venue to allow for an existing barn to hold the weddings and an existing potting shed to be used as a bride's changing room 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 conditions were imposed:

1. Approved in accordance with the site plan submitted (dated 11/14/16) and as represented in the Special Use application.
2. All applicable buildings need review/approval from the Building Commissioner.
3. Sign limited to no more than 24 square feet with external lighting only, no internal lighting.
4. Approved for a period of two years with renewal before the Elkhart County Advisory Board of Zoning Appeals.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

12. The application of *Dogwood Hills Tree Farm/Cynthia Lederman* for a Special Use for a garden supplies business on property located on the East side of CR 39, 3,800 ft. North of CR 10, in York Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0643-2016*.

There were 12 neighboring property owners notified of this request.

Todd Lederman, 53899 CR 39, Middlebury, was present representing this petition and stated the property is actually in his wife's name. Mr. Miller clarified the business is existing and moving to the other side of the road. Mr. Lederman stated the existing site has 31 acres including their current house and shop. However, their children are grown, and they no longer need a large house. He continued saying they wish to downsize and move the business across the street to a location where trees have been growing for 13 years. Mr. Lederman also stated alternative locations are also being looked into for the business, but he wanted to make sure everything was in order if they decide to move to this location. Mr. Miller commented this is a Special Use

request and cannot be used for a different business without Board approval. Mrs. Weirick questioned if the property would revert back to its prior status if the business does not move to this location, and Mr. Hesser stated it would not unless it is repealed. Mr. Hesser also questioned if the property is still being used for a storage area as listed in the property's history. Mr. Lederman stated in 1995 he ran an excavation business, but he sold that business in 1998 and has used the property as a tree farm ever since. He continued stressing the building was still used for storage, and the only difference was increased traffic from the tree farm business. Mr. Hesser questioned if the property currently has any buildings, and Mr. Lederman responded it does not.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Weirick suggested adding a time commitment of 2 or 3 years and questioned why the proposed house is not on the site plan. Mr. Hesser responded the house is on a separate piece of property.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a garden supplies business 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 11/14/16) and as represented in the Special Use application.
2. Approved for a period of two years with renewal before the Elkhart County Advisory Board of Zoning Appeals.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

13. The application of *Town of Wakarusa* for a Special Use for the construction of a municipal building for the City of Wakarusa on property located on the West side of Indiana, North of High St., common address of 312 High St. in Olive Township, zoned R-4, came on to be heard.

The petitioner was not present; hearing continued to the end of the meeting.

See item #17 on page 19.

14. The application of *Angela Gradeless Blasko (Landowner), Charles & Nancy Kline (Land Contract Holders) and Gary Fouts (Land Contractor Purchaser)* for a Special Use to allow for animal racing and/or training and for a Developmental Variance to allow for signs (including wall signs) larger than 8 sq. ft. on property located on the West side of CR 27, 1,500 ft. South of CR 8, common address of 53845 CR 27 in Washington Township, zoned A-1, came on to be heard.

Due to the large amount of remonstrators present: hearing continued after the David J. & Fannie Mast petition.

See item #16 on page 14.

15. The application of *David J. & Fannie Mast* for a Use Variance to allow for a second residence on a single parcel located on the West side of CR 43, 1,600 ft. South of CR 36, common address of 64353 CR 43 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0638-2016*.

There were 12 neighboring property owners notified of this request.

Fannie Mast, 64353 CR 43, Goshen, was present representing this petition. Mrs. Mast stated they would like approval of this petition in order to live in their existing home while their new home is being built. Mr. Hesser questioned if Mrs. Mast has any objections to the conditions and commitments imposed, and she did not. Mr. Godlewski stated this is an amendment change to the Zoning Ordinance for next year to better help the timing of these petitions; they will no longer come before the Board. He also stated the commitment to tear down the existing home when the new home is completed will still apply.

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** 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 Use Variance to allow for a second residence on a single parcel be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. The old residence must be removed within 6 months of completion of the new residence.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 11/14/16) and as represented in the Use Variance application.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

16. The application of *Angela Gradeless Blasko (Landowner), Charles & Nancy Kline (Land Contract Holders) and Gary Fouts (Land Contractor Purchaser)* for a Special Use to allow for animal racing and/or training and for a Developmental Variance to allow for signs (including wall signs) larger than 8 sq. ft. on property located on the West side of CR 27, 1,500 ft. South of CR 8, common address of 53845 CR 27 in Washington Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0613-2016*.

There were 15 neighboring property owners notified of this request.

Dr. Gary Fouts, 53845 CR 27, Bristol, came on representing this petition and stated he has been a local veterinarian since 2002. He continued saying he has worked with local veterinarians, and he started his own practice three years ago as strictly an equine veterinarian. He stressed he purchased this property because they own, ride, trade, and breed horses. He continued saying they became interested in using this location as a training facility for themselves, and his clients also became interested in the idea. He stressed their main goal is to train the horses and work them on the track in order to prepare them for shows. Mr. Fouts stated the horses in this area are impressive horses, which the owners put a lot of money into. He stressed this petition is focused on racing, but his idea is to put in an outdoor arena for training and showing purposes. He went on to say the horses and trainers are not staying in this area, because not many horse arenas are available. Mr. Fouts stressed he would like to start out at a small scale, which may grow in the future and move to another location. He continued saying he writes health papers for horses going to shows in Michigan, Illinois, and Southern Indiana, but this area does not have any places to show horses. Mrs. Weirick questioned what Mr. Fouts meant by showing animals, and if there will be any horses sold. Mr. Fouts responded the arena will be used for showing, barrel racing, riding, and similar events. He continued saying the goal is to have a nice, safe place for horse owners to compete and for the public to watch. He stated many horse owners have to travel a couple hundred miles to show. Mr. Fouts stressed the community will benefit from approval of this petition such as hay, feed, and hardware businesses. Mr. Campanello questioned when the events would take place, and Mr. Fouts responded in the summer during daylight hours. Mrs. Weirick mentioned the application states tractors will be used on site and questioned if the outlined parking area will be large enough to park tractors, trailers, and spectator vehicles off of the road. Mr. Fouts responded a large 20 acre pasture will be used for parking and submitted pictures of the property [Attached to file as Petitioner's Exhibit #1]. Mrs. Weirick also questioned if the other planned uses will take away from the parking area. Mr. Fouts responded they will come back before the Board for approval of the future projects. He continued saying they have an idea for an aquatic center to be used for horse therapy, but they do not believe this property has enough room for it. Mr. Miller questioned if the straight track is for quarter horses, and Mr. Fouts responded yes. Mr. Campanello stated he would like to see a professional and accurate site plan in case this grows. Mr. Fouts suggested going to an architect for a site plan. Mr. Hesser questioned if the pictures submitted are of this property, and Mr. Fouts responded yes. He continued saying before starting this process they talked to the neighbors touching their property except for a few who did not answer their door, and no one voiced any concerns. He also stated he has spoken with and received approval from both the Bristol Town Marshall and the Saint Joe County Sherriff. Mr. Miller stated he believes this could become very popular, and without a properly set up it could get out control.

Dan Leek, 54021 CR 27, South of the aerial came on in remonstrance. Mr. Leek stated what is shown on the aerial is not what the property currently looks like. He continued saying Mr. Fouts hired an excavator to prep the ground for a race track and installed a starting gate. He stated Charlie Kline owned this property for many years while training horses, and the neighbors never had a problem with it. He stressed the neighbors are not against horse training, but they do have a problem with horse racing. Mr. Leek stated these races have caused a large amount of noise due to the loud music that is played, and he stressed the neighbors hear thump, thump, thump all day long. He also stressed horse races generate a tremendous amount of traffic from

the spectators and the horse trailers. He continued saying a large amount of trash is also blown onto his property from the races. Mr. Campanello questioned if the neighbors have had issues with noise, traffic, and trash from past races, and Mr. Leek responded he started with races after Memorial Day. He continued saying he believes around four or five races have been held on the property so far. He also stated to his understanding spectators are being charge \$20 per person for admission and stressed 400-500 people attend the races. He went on to say they have installed a multi-horse gate, and it is very loud when everyone yells at the start of each race. Mr. Leek stated he believes this track was started to generate money for the petitioner. He also stated the owner wishes to expand this operation in the future, and he wonders how many people will attend the races in two years. He continued adding alcoholic beverages are being partaken of at the races. He stated signs are posted staying no alcoholic beverages are allowed, but no one follows this rule. He also believes a large amount of inter-contestant gambling is taking place on the premises. He closed saying these races are causing a large amount of traffic, noise, and trash. Mrs. Weirick stated the petitioner acknowledged in his application that 300-600 people attend the races. She also questioned if the fence and mound surround the entire property. Mr. Leek responded a fence surrounds the entire property, and mounds are located behind the race track. Mr. Leek also added Mr. Fouts does have security present during the races, and the Elkhart County Sherriff was called to the property for a disturbance during a race. He stated after talking with the neighbors, he found only one neighbor who was okay with this petition, and he stressed most of the neighbors are against this.

Barbara Wise, 53597 CR 27, came on in remonstrance and stated she has lived in Elkhart County her entire life. She stressed she has never felt the need to come before the Board in remonstrance. She stated around ten years ago her family became familiar with the Bristol area, and they built their forever home on CR 27. She stressed she wishes to maintain the serenity that drew them to this neighborhood. She continued saying the neighborhood consists of a church, ball park, homes, and farm land, but none of these have been disruptive enough to cause any concern. Mrs. Wise stated the track is very disruptive to the lifestyle her family wishes to hold. She stressed races have already taken place on multiple dates with hundreds of people attending. She continued saying it is noisy, dirty, dusty, and long. She stated vibration from the loud, constant music can be felt inside her home. She went on to say she would like enjoy her patio with a cup of coffee or a book without being disrupted by the race track. Mrs. Wise stated the first race was held on June 11th and the second on July 2nd. She continued stressing the second race brought more spectators, vendors, and noise. She went on to say a large crowd gathered in the parking lot, and the police were called. She stated then many of the vehicles tried to leave at the same time, and she believes illegal activities were taking place on the property. Mrs. Wise stated another race took place on July 16th with a race once a month since then. She questioned if this track is connected to the races that were taking place near Simonton Lake. She stressed this property is surrounded by residential areas on two sides.

Lamar Bost, 53924 CR 27, came on in remonstrance and stated Mr. Fouts did not talk to him before the races began. Mr. Campanello stated the petitioner recognized he did not make it to all of the neighbors. Mr. Bost pointed out his drive across the street from the petitioners on the aerial. He stressed he bought a house in the country for the atmosphere. He also continued saying a little league ball park is located just down the road that holds games on Saturday, and he added his daughter plays at that park. He voiced his concern about the children's safety. Mr.

Bost brought up the wedding venue petition previously heard, and the Board directed him to speak only to this request. He also added he picks up several bags of trash from his yard after the races.

Lyle Shinn, 17154 CR 8, stated he agrees with the previous remonstrators, and he pointed out his home to the North on the aerial. He stated most of the noise goes over his property as it sits lower, and he stressed he is also concerned about the dust.

Angela Gradeless, Mr. Fouts' wife, owner of the property adjoining the thirty-two acres, came on for this petition. Mrs. Gradeless stated this summer horse races took place, but that is not their intent for this property. She stressed they have six children involved in 4-H, and her goal is to host educational seminars for children to learn how to manage their horses. She went on to say the educational seminars would take place in the arena which is not complete at this time. She also stated the track was originally intended for their personal use, but their clients also became interested in it. Mrs. Gradeless recognized races spiraled out of control this summer. She went on to say admission is charged to help cover prizes for the winners and the cost of operation. She stressed her husband owns a veterinary clinic, and they do not use the race money as their income. She continued saying their goal is to bring the equine community together and teach children how to handle their horses. She also added their children play at Bristol Little League, and they strive to keep this a safe, family environment. Mrs. Gradeless also stressed they talked to the County Marshall, and he did not have a problem with it. She went on to address the trash issue and stressed they do not have any trash in their own yard after the races. She also stated they clean up the trash around the track immediately the next day. She continued saying they do not have a sound system installed, but the spectators play music out of their cars. She also added it is a family event, and children enjoy playing on the dirt mounds. Mrs. Gradeless stressed she would like to focus on the arena aspect of the property to help develop a community of young equine enthusiasts. She also recognized it is a high traffic area, but the little league also brings in a large amount of traffic. Mrs. Weirick questioned if proper permitting has been obtained for tents and vendors, and Mrs. Gradeless responded the spectators put up their own pop-up tents. Mrs. Weirick stated she believes she read about tents for vendors in the application and mentioned they might also need a permit to sell tickets. She continued asking if the races could be limited to one weekend a month in the summer months as opposed to every weekend a month. Mrs. Gradeless stated they have no intention to hold a race every weekend, but they were advised to put more than they expect to have in the application to cover them later on. She stressed so far a race has been held about once a month.

Gary Fouts came back on for this petition and stressed racing is not their full purpose. Mr. Campanello questioned how he plans to keep the dust under control during the dry times of the year, and Mr. Fouts responded he plans on using water wagons. Mr. Campanello also questioned how he can control the loud music. Mr. Fouts stated he can go car-to-car telling the spectators to turn their music down. Mr. Hesser questioned if the hours of operation listed will cover both horse training and racing. Mr. Fouts stated training would only involve a handful of people at a time. He also recognized trash is a big issue and stressed they make an effort to clean it up quickly. Mr. Campanello stated he believes they should take more responsibility for the people coming onto their property. He continued saying they need to set rules in order to curtail the trash, dust, and noise. Mrs. Gradeless mentioned a plan to hand out trash bags to spectators and give them \$5 for bringing back filled bags. She also suggested building a more enclosed

fence to help keep trash from blowing off of the property. Mr. Miller stated educational classes produce a very different atmosphere than races. He stressed the training aspect is great, and a huge need in this area. He continued saying he believes the petitioners are asking for two very different requests. Mrs. Gradeless stated racing is not their focus, because it is not their entire goal for the property. Mr. Fouts stated when this petition was filed, their requests were all believed to be under the same category. Mr. Campanello stated racing the horses they train is one thing, but he believes bringing in horses from other counties or states is different.

The public hearing was closed at this time.

Mr. Campanello stated he believes training horses to show is a great idea, but he also believes races could easily spiral out of control. Mr. Hesser stated he sees training and racing as two very different requests, and he stated a proper site plan could address most of his concerns. He continued saying in addition to a proper site plan, several controls need to be put in place, before horse racing can be considered. Mrs. Weirick questioned if the Ordinance addresses horse racing. She also stated she understands why staff presented the request this way based on how the Ordinance is written. She continued saying the Board needs to address the concerns this petition causes with time limits, a better site plan, and additional commitments from the petitioner. Attorney Kolbus suggested adding commitments which prohibit certain activities such as open racing. He continued saying he believes this can be done, and the petition should be tabled to allow the petitioners to come back with a detailed site plan and restrictions. Mr. Campanello stated racing is a business not a home work shop and suggested a detailed site plan and commitments be required. Attorney Kolbus mentioned open racing, and Mr. Miller responded it is hard to define and restrict. Mr. Campanello stated multiple races throughout the day is different than two people racing to see who is faster. Mr. Miller stated he believes the petitioners would be better equipped to use the right terminology when defining restrictions. Mrs. Weirick suggested the petitioners' lay out how they plan to follow any laws pertaining to this situation. Mr. Miller stated he would like to know how noise/dust will be controlled and how races will be limited. Mrs. Weirick continued saying she would like to know how vendors will be monitored and ensure the Health Departments approval has been obtained. Mr. Campanello stated he believes vendors were only listed in the application in case they chose to add vendors in the future. Mrs. Weirick responded the remonstrators mentioned vendors were present. Mr. Hesser stated a horse show environment is much different than a racing environment, and he suggested alternate proposals be submitted. He also stressed the petitioners will not have enough time to submit the required information for the January hearing. He then questioned when the information would need to be submitted for the February hearing, and Mr. Godlewski responded it must be placed in the public file 10 days before the meeting. Mr. Hesser asked the petitioners if the requested information could be submitted by the first week in February, and Mr. Fouts responded he is not sure how long it will take. Mr. Hesser stated this petition could be postponed until March. Mrs. Weirick mentioned she believes 90 days is reasonable. Mr. Fouts responded he believes it will be, but he is not sure where to begin. Mr. Campanello suggested Mr. Fouts seek help from the Planning Department and questioned if this parcel is required to be rezoned. Mrs. Weirick responded all that is needed for this petition is a Special Use. Mr. Hesser stated this petition will be heard on the 16th of March and any materials submitted should be filed ten days in advance. Attorney Kolbus stated the neighbors present in remonstrance should be re-notified.

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

Motion: Action: Table, **Moved by** Tony Campanello, **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 Special Use to allow for animal racing and/or training and for a Developmental Variance to allow for signs (including wall signs) larger than 8 sq. ft. in an A-1 district be tabled until the March 17, 2017, Advisory Board of Zoning Appeals meeting to allow the petitioner to submit a detailed site plan, limitations/restrictions, and possible alternate proposals.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

17. The application of *Town of Wakarusa* for a Special Use for the construction of a municipal building for the City of Wakarusa on property located on the West side of Indiana, North of High St., common address of 312 High St. in Olive Township, zoned R-4, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0653-2016*.

There were 18 neighboring property owners notified of this request.

Again, no petitioner was present. Mr. Godlewski stated Jeff Troxel called and stated he could be present, but staff felt this petition could be handled without him present. Mr. Hesser questioned why parking is not shown on the site plan, and Mr. Godlewski confirmed parking for the building is across the street at an existing municipal building. Mr. Godlewski also mentioned neighbors were notified, and none are present.

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** 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 the construction of a municipal building for the City of Wakarusa 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 11/22/16) and as represented in the Special Use application.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

18. As a staff item, Mr. Godlewski presented the request for approval of an updated site plan as required with approval of a Special Use for Jose Romeo Pineda (Buyer) and Willie's

Construction (Seller) (SUP-0124-2016) tabled from the November 17, 2016 Board of Zoning Appeals Hearing. Mr. Godlewski stated the petitioner submitted updated information including the sign location and hours of operation. Mr. Hesser pointed out the sign location is listed on the site plan. Mr. Godlewski stated staff has looked over the new site plan and recommends approval. Mrs. Weirick questioned what the issue was at previous hearings, and Mr. Godlewski stated a large amount of remonstrators were present. He also stated the remonstrance was not necessarily against the business, but it was more of a personal remonstrance.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board approve the request as a minor change.

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

Yes: Denny Lyon, Randy Hesser, Roger Miller, Suzanne Weirick, Tony Campanello.

19. The staff item for the 2017 Agreement for legal services for Attorney Kolbus was presented by Mr. Godlewski.

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

Motion: Action: Approve, **Moved by** Suzanne Weirick, **Seconded by** Denny Lyon that the Board approve the 2017 agreement for legal services for Attorney Kolbus as presented by staff.

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

Yes: Suzanne Weirick, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

20. The meeting was adjourned at 11:31 A.M.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary