

**MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 21<sup>st</sup> DAY OF APRIL 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; Jason Auvil, Zoning Administrator; Mark Kanney, Planner; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Tony Campanello, Suzanne Weirick, Randy Hesser.

**Absent:** Roger Miller, Denny Lyon.

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

3. A motion was made and seconded (*Campanello/Weirick*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

**\*\*It should be noted Roger Miller arrives at this time.\*\***

4. The application of ***Karl D. Slabach (Owner/Buyer) and Kevin V. and Ruth Ann Miller (Sellers)*** for a Developmental Variance to allow for the construction of a residence and accessory/agricultural building served by an access easement on property located on the North side of CR 24, 2,350 ft. East of SR 13, in Middlebury Township, zoned A-1, came on to be heard.

There were nine neighboring property owners notified of this request.

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

There were no remonstrators present.

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

**Motion: Action:** Withdraw, **Moved by** Randy Hesser, **Seconded by** Suzanne Weirick that the Board accept the request to withdraw the petition for a Developmental Variance to allow for the construction of a residence and accessory/agricultural building on property served by an access easement.

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

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

5. The application of ***SLG Properties (buyer) and Ralph Holaway (seller)*** for a 7 to 1 depth to width ratio Developmental Variance and for a 30 ft. lot width Developmental Variance to allow for the construction of residence (Ordinance requires 80 ft.) on property located on the

East side of State Road 19, 770 ft. West of Johnson Street, common address of 26145 CR 4 in Osolo Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #26145CR 4-160215-1*.

There were 19 neighboring property owners notified of this request.

Mr. Auvil noted that Parkview Avenue ends at the property line and provides a 50 ft. access point to the property. Mr. Kolbus stated in order to subdivide the Northern lot; they would have to extend Park Avenue into the lot. Mr. Auvil confirmed they are going to subdivide the lot, if this petition is approved. There was further discussion amongst the board members regarding the depth to width ratio and the amount of road frontage needed.

Richard Rudy, 51835 CR 9, Elkhart, was present in remonstrance. Mr. Rudy stated he overheard a surveyor questioning the amount of homes that could be built on the parcel, and what type of zoning would be required to do so. He stated the petitioner does not plan to only build one house on the parcel; however they plan to build several. Mr. Rudy went on to say he has lived in the neighborhood for 43 years and the wooded parcel blocks a lot of wind and noise from Cassopolis Street, as well as provides a habitat for wildlife animals. He stated if the lot were to be cleared it would destroy the area and greatly affect his property. Mr. Rudy explained that he made an attempt to purchase the property in order to stop the destruction; however he missed the sale by a few days. He went on to say that what the petitioner is doing is a matter of money, greed, and power with no regard to the neighbors.

The public hearing was closed at this time.

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

**Motion: Action:** Table, **Moved by** Roger Miller, **Seconded by** Suzanne Weirick that this request for a 7 to 1 depth to width ratio Developmental Variance and for a 30 ft. lot width Developmental Variance to allow for the construction of residence (Ordinance requires 80 ft.) be tabled until the May 19, 2016, Elkhart County Advisory Board of Zoning Appeals meeting.

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

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

6. The application of *Steven and Ashley Williams* for a 19 ft. Developmental Variance to allow for the construction of a detached garage 31 ft. from centerline of the right-of-way of Mark Manor (Ordinance requires 50 ft.) on property located on the Southwest corner of Mark Manor and Mark Manor, South of Sandalwood Drive, Southwest of US 20, common address of 56719 Mark Manor Dr in Concord Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #56719Mark ManorDr-160314-1*.

There were nine neighboring property owners notified of this request.

Mr. Auvil noted Mr. Williams came into the Elkhart County Public Service building on April 20, 2016, and had a letter showing his hearing date scheduled for April 20, 2016, and an additional letter showing his hearing date scheduled for April 21, 2016. Mr. Auvil explained that Mr. Williams stated he had taken off of work and would be unable to be present at the hearing on April 21, 2016, as his work would not allow him to leave an additional day. Mr. Auvil went on to say that he told Mr. Williams he would represent his petition and let the board know that there

was confusion as to which date the hearing was scheduled for. He went on to clarify that Mr. Williams' receipt from when he submitted the application stated Mr. Williams hearing date would be scheduled for April 20, 2016, and the Notice of Public Hearing letter stated his hearing date would be scheduled for April 21, 2016.

There were no remonstrators present.

There was further discussion amongst the board members whether the hearing should continue on and be represented or be tabled until the next hearing on May 19, 2016.

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

**Motion: Action:** Table, **Moved by** Randy Hesser, **Seconded by** Suzanne Weirick that this request for a 19 ft. Developmental Variance to allow for the construction of a detached garage 31 ft. from centerline of the right-of-way of Mark Manor (Ordinance requires 50 ft.) be tabled until the May 19, 2016, Elkhart County Advisory Board of Zoning Appeals meeting.

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

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

7. The application of *Martin L Lowe* for a Special Use for an agricultural use for the keeping of chickens, pigs, and cows on a tract of land containing less than three acres on property located on the East side of CR 23, 900 ft. South of CR 14, common address of 55412 CR 23 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 #55412CR 23-160219-1*.

There were six neighboring property owners notified of this request.

Martin Lowe, 55412 CR 23, Bristol, came forward representing this petition. Mr. Lowe stated he is requesting the ability to have farm animals on his property. Mr. Hesser stated he is asking for a lot of animals, and questioned how Mr. Lowe plans to dispose and manage the waste. Mr. Lowe stated he is going to start a compost operation and use the waste for compost in his gardening and on his yard. Mr. Hesser confirmed that there will be three fenced in areas consisting of one 50' x 50' and one 30' x 30' for cows and a 25' x 25' for pigs. Mr. Hesser questioned if Mr. Lowe had talked to his neighbors. Mr. Lowe stated he has only talked to one of his neighbors that lives to the left of his property, however he has not talked to any additional neighbors. Mr. Hesser confirmed that the neighbor to the left of his property understands the intensity with the number of animals Mr. Lowe plans to manage.

Terry Yeager, 55460 CR 23, Elkhart, came on to be heard. Mr. Yeager stated his issue is in regards to their plan in managing the manure. He went on to say there is a creek that runs along the property line and because of the amount of proposed animals, the manure has a potential to run off into the creek. Mr. Yeager stated with everything that is already existing on Mr. Lowes' property (their house, pool, metal scrap and wood scrap that they have in their yard, buildings, and animals) he is unsure that there is enough space to add two cows on the property and fully nurture them. Mr. Yeager stated he is okay with the amount of animals that are already located on Mr. Lowes' property; however he is in opposition of Mr. Lowe bringing more animals onto the property. He went on to say that the scrap metal and materials found on the property is very unsafe for more animals. Mr. Yeager stated this petition is to obtain approval to put the animals on the property, when they are animals currently on this property. Mr. Campanello

confirmed that there are already animals on the property. Mr. Yeager stated there are three pigs, chickens, ducks, turkeys; the pig pen and chicken coop have already been built. Mr. Campanello asked Mr. Yeager if he is in agreement with keeping the amount of animals that Mr. Lowe already has on his property. Mr. Yeager stated there are too many pigs on the property and the scrap metal and scrap wood on Mr. Lowes property is a separate issue.

Mrs. Weirick asked Mr. Lowe exactly how many animals he has right now. Mr. Lowe replied that he has three pigs and is unsure of the amount of chickens. He went on to say he is applying for the Special Use permit because he purchased the animals and later heard about the ordinance from a neighbor. Mr. Lowe stated the scrap materials will be moved before the cow pens go up. Mr. Kolbus confirmed that there are currently no cows on the property. Mr. Hesser questioned how many acres Mr. Lowe has. Mr. Lowe stated he has two acres. Mrs. Weirick questioned if Mr. Lowe plans to acquire an additional pig. Mr. Lowe replied no. Mr. Campanello questioned if this petition was brought on as a complaint and Mr. Auvil indicated not to his knowledge. Mr. Hesser stated that Mr. Lowe indicated he just became aware of the ordinance. Mr. Lowe restated that he was unaware of the ordinance and how many animals he was allowed.

The public hearing was closed at this time.

There was further discussion amongst the board members regarding how many animals to allow and the difference between this being a growing environment for food instead of a request for 4-H animals.

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

**Motion: Action:** Approve, **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 Special Use for an agricultural use for the keeping of chickens, pigs, and cows on a tract of land 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 2/19/16) and as represented in the Special Use application.
2. Limited to a total number of: three beef/dairy cows or pigs, in any combination; and twelve chickens, no roosters.

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

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

8. The application of *Wayne and Sherrill Bontrager* for a Special Use for a home workshop/business for buggy manufacture and repair on property located on the East side of CR 43, 900 ft. South of CR 46, common address of 68630 CR 43 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 #68630CR 43-160303-1*.

There were eight neighboring property owners notified of this request.

Wayne Bontrager, 68630 CR 33, Millersburg, came on to be heard. Mr. Bontrager stated he would like to start up a buggy manufacture and repair business as there are no buggy shops in close proximity. Mr. Bontrager added that he would like to be able to help a lot of men who work at factories and cannot get to a shop in time before its closed due to the time it takes to travel. Mr. Hesser questioned if the buggy manufacture and repair business can be operated within a building he already has. Mr. Bontrager replied yes.

John Bontrager, 12546 CR 42, Millersburg, came on to be heard. Mr. Bontrager stated the area is in need of a buggy shop so people do not have to travel so far just to have their buggy repaired.

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 Special Use for a home workshop/business for buggy manufacture and 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 commitment was imposed:

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

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

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

9. The application of *John A and Leona K Jones* for a Special Use for a home workshop/business for a book store on property located on the West side of SR 13, 1,933 ft. North of CR 40, common address of 65603 SR 13 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 #65603SR 13-160311-1*.

There were four neighboring property owners notified of this request.

John Jones, 65603 SR 13, Millersburg, came forward representing this petition. Mr. Jones stated he is looking to open a book store as there are not any located nearby. He went on to say that this will be a family bookstore with good clean reading. Mr. Jones stated there is a lot of traffic going through Millersburg, and it will be a very convenient location for most people. Mr. Hesser questioned if the business will operate out of an existing space, and Mr. Jones replied yes. Mr. Campanello questioned if Mr. Jones will be selling new or used books. Mr. Jones stated he will be selling new books.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a book 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 3/11/16) and as represented in the Special Use application.

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

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

10. The application of **John D. Bontrager and Jodi A. Bontrager** for a Special Use for a home workshop/business for a fabric store on property located on the South Side of CR 42, 2,397 ft. East of CR 37, common address of 12546 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 #12546CR 42-160303-1*.

There were 23 neighboring property owners notified of this request.

John Bontrager, 12546 CR 42, Millersburg, came on representing this petition. Mr. Bontrager stated he would like to open a fabric store. He went on to say many people have stated there is a great need in the area for a store that sells fabric and sewing supplies. Mr. Hesser confirmed that Mr. Bontrager will be using existing space.

Wayne Bontrager, 68630 CR 33, Millersburg, came forward speaking in favor of this petition. Mr. Bontrager stated the majority of the ladies in the area could use a store like this the most. He went on to say that the ladies have to travel to Topeka and other areas just to get the materials they need. Mr. Bontrager stated there is one nearby store, however you cannot always get what you need.

Mr. Campanello questioned the type of trucks delivering supplies to the store. Mr. John Bontrager stated a UPS truck or a 15-passanger van will deliver their supplies. Mr. Hesser confirmed that they will not have any semi-truck deliveries.

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** 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 home workshop/business for a fabric 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 3/4/16) and as represented in the Special Use application.

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

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

11. The application of *Sunrise Orchards Inc* for a Special Use for a wireless communications facility on property located on the South side of CR 38, 2,247 ft. East of CR 21, common address of 19498 CR 38 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 #19498CR 38-160314-1*.

There were 20 neighboring property owners notified of this request.

Brian Donnelly of Verizon Wireless and Parallel Infrastructure, 660 Midwest Rd, Oakbrook Terrace, IL, came on to be heard. Mr. Donnelly stated Verizon Wireless is the carrier who is interested in this location, and Parallel Infrastructure is the tower owner. He went on to say the need for this tower has been presented due to the usage and coverage concern of Verizon Wireless for the residents of Elkhart County. Mr. Donnelly explained this tower will improve the coverage in the area of County Road 38 and County Road 31. He went onto say during peak traffic times, the surrounding towers and the network in Elkhart County area are overloaded, and the only way to improve the capacity of coverage in any particular area is by putting new equipment in the air. Mr. Donnelly stated these towers in general not only improve the coverage of any carrier that may collocate on the tower, they also improve the 911 coverage in the area. He went on to say with the technology that these towers use, they are able to route a call to the correct emergency dispatcher and provide that emergency dispatcher with a location of an incident as well as a call back number for them to reach who is in trouble if they were to get disconnected. Mr. Donnelly stated this could be considered a point of public welfare as well. Mrs. Weirick questioned which EMS system the tower will communicate with as there are two in the area; county and city. Mr. Donnelly stated he is unsure as it depends on whichever local switch the fiber optic network is connected to at a specific area. Mr. Hesser asked Mr. Donnelly to clarify the collapsibility issue because of the surrounding areas of the proposed tower location. Mr. Donnelly stated the tower that is being presented has been designed to collapse upon itself and to collapse within the compound. He went on to say the proposed tower is self supporting and has a tripod base. Mr. Donnelly added the tower is designed to have four carriers should any additional carrier be interested in collocating. Mr. Hesser confirmed that the structure should not propose any danger to the surrounding buildings.

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 Special Use for a wireless communications facility be approved with the following condition imposed:

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

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 3/14/16) and as represented in the Special Use application.

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

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

12. As a staff item, Ms. Gunden presented the request for a minor change to an existing Use Variance for Dallas L. and Karen M. Pletcher (61759 11-150313-1). Ms. Gunden stated Mr. and Mrs. Pletcher would like to add an additional outside refrigerated box to be placed in front of the existing garage. Mr. Miller questioned if there is already an outside refrigerated box. Ms. Gunden stated they are looking to get rid of the existing refrigerated box and replace it with a larger box. Mr. Auvil stated this specific Use Variance has had a lot of complaints and issues so he decided to bring it before the board for approval. Mr. Hesser stated he recalls storage being a big issue. Mr. Auvil stated everything has been approved by the Health Department and Mr. and Mrs. Pletcher are only requesting a minor change to the site plan. Mr. Hesser confirmed that a lot of the complaints and issues were related to the Health Department standards and procedures. Mr. Auvil stated they are only amending a site plan and there are no square footage issues. Mrs. Weirick stated with replacing the existing refrigerated box with a larger one, this could potentially help with the previous issues of cleanliness.

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

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

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

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

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

13. A second staff item was presented by Ms. Gunden for Gateway Properties (Land Contract Purchaser) and Barry Newberry (Land Contract Holder) (20063270) as a request for a minor change for an amendment to a site plan. Mr. Kolbus stated the request is less than a ten percent increase. Ms. Gunden stated the original site plan was approved for future buildings.

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.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 3).

**Yes:** Tony Campanello, Roger Miller, Suzanne Weirick.

***\*\*It should be noted Mr. Hesser returns to the board at this time.\*\****

14. The application of *Ramer Enterprises, LLC* for a Special Use for a wireless communications facility on property located on the Southwest corner of CR 11 and CR 32, 4,200 ft. South of CR 30, 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 #00000CR 32-160314-1*.

There were 10 neighboring property owners notified of this request.

Thomas Jemilo, 1S660 Midwest Rd, Suite 140, Oakbrook Terrace, IL, came on to be heard. Mr. Jemilo stated this request is to build a 195 ft. monopole tower on a 100' x 100' leased tract of land. He went on to say this request is consistent with the spirit of the Zoning Ordinance and the location has been carefully selected in order to maintain all of the proper setbacks. Mr. Campanello confirmed that this tower is created to collapse upon itself.

Ronald Wenger, 62739 CR 32, Goshen, came on to be heard. Mr. Wenger stated the legal ad for this petition had incorrect directions to the location of the property presented in this petition. Mr. Hesser stated the site plan showed the correct location, and the application was entered incorrectly.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a wireless communications facility be approved with the following condition imposed:

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

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 3/14/16) and as represented in the Special Use application.

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

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

15. The application of *TPM Real Estate, LLC* for a Special Use for warehousing and storage in an A-1 zone on property located on the South Side of CR 52, 900 ft. East of CR 133, common address of 14298 CR 52 in Benton Township, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #14298CR 52-160311-1*.

There were 12 neighboring property owners notified of this request.

Todd Mikel, 13117 North Eastshore Drive, Syracuse, came forward to present the petition. Mr. Mikel stated the property is located very close to Lake Syracuse, and he would like to offer the community a place to store their boats, motor homes, and other items within an indoor storage facility. In time, Mr. Mikel stated he may like to build an additional building beside the existing structure that will serve the same purpose. He went on to say that both buildings will share the existing driveway and will look identical. Mr. Hesser stated if the

petition is approved today, the petition would be approved based on the site plan submitted showing one existing building and one proposed building. He went on to say that if Mr. Mikel would be interested in building any additional structures not shown on the submitted site plan, he would need to come back to the Board of Zoning Appeals for approval.

Dennis Emmert, 945 East Northshore Dr, Syracuse, came on to be heard. Mr. Emmert stated he is concerned that there will be more than two buildings being built in the future, and that Mr. Mikel plans to fill his 24 acre parcel with storage buildings. He went on to say he has no issue with putting up two buildings; however he does not want to see the 24 acre parcel filled with storage buildings.

Mr. Mikel responded stating there will be no request for more buildings and all he is requesting is to build two storage buildings. He went on to say that he understands Mr. Emmert's concerns.

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 warehousing and storage in an A-1 zone 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 3/11/16) and as represented in the Special Use application.

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

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

16. The application of *Avery L. Aragona and Samuel L. Burns* for a Special Use for warehousing and storage in an A-1 zone on property located on the South side of CR 20, 268 ft. West of CR 31, common address of 16084 CR 20 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 #16084CR 20-160314-1*.

There were 13 neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering and Surveying, 1009 South 9<sup>th</sup> Street, Goshen, came forward representing Samuel and Avery Burns. Mr. Pharis stated Mr. and Mrs. Burns operate a bouncy house business and take them to schools, churches, and homes for parties. He went on to say Mr. and Mrs. Burns store the bouncy houses at their house, and when the bouncy houses are booked, they take them to their clients, put them together, have the party, tear them down, take the bouncy house back to their property, clean them out and restore them for when they are rented again. Mr. Pharis went on to say typically Mr. and Mrs. Burns do not have any business in the winter unless they provide the bouncy house for a school that is having an indoor event. Mr. Pharis stated Mr. and Mrs. Burns had obtained previous approvals from the Board of

Zoning Appeals for their business in March and April of 2013, and an approval in 2014. He went on to say when it came time for them to renew their Special Use; they never received the commitment form that was needed in order for their Special Use to be renewed, and it was therefore rescinded December 2015. Mr. Hesser confirmed with Mr. Pharis that Mr. and Mrs. Burns did not receive the notices that were sent. Mr. Hesser also confirmed that Mr. and Mrs. Burns received the notice for the Board of Zoning Appeals hearing today. Mr. Pharis stated that they did receive the letter for the hearing date today and have installed a new locked mailbox at their residence to ensure mail is properly delivered to them.

Mr. Hesser questioned if what they are proposing now is any different than what was previously proposed. Mr. Pharis stated the only difference is the request was approved for two trailers and when he met with the staff, he showed them that the covenants that are recorded for the site that permit the storage of any licensed vehicle outdoors; unlicensed vehicles must be stored indoors. He went on to say Mr. and Mrs. Burns are only asking for the approval to store four licensed vehicles between their barn and fence; however nothing else is different from what was previously proposed. Mr. Miller confirmed that the fence that was previously requested to be installed has been completed. Mr. Pharis stated that even with a favorable staff recommendation, he will guarantee that if the petition is approved, he will take a proactive approach to receive the commitment form from staff, have the form signed by Mr. and Mrs. Burns, get it recorded and returned to the Elkhart County Public Service building. Mr. Pharis stated he brought a copy of the covenants and the entire declaration if the board would like to review them [attached to file as *Petitioner Exhibit #1*]. Mr. Miller confirmed if Mr. and Mrs. Burns are asking permission for four licensed trailers. Mr. Pharis stated that Mr. and Mrs. Burns are putting the limitation of four licensed trailers on themselves. Mr. Miller stated that they are not legally bound by any number of trailers as long as their licensed. Mr. Hesser stated it becomes an issue when there is writing on the side of the vehicles. Mrs. Weirick questioned if they will be limiting themselves to only four trailers as they are requesting four trailers. Mr. Kolbus confirmed yes.

Mr. Auvil presented a letter submitted by Linda Mayberry, 58635 CR 31, Goshen, in remonstrance of the petitioner [attached to file as *Staff Exhibit #1*]. The letter stated issues regarding the property not being visually pleasant for their neighbors, and concerns regarding the fence they were required to install and that looks like a junk yard/salvage yard fence. In addition to the fence's appearance, she stated if her 11 acre parcel ever becomes residential, she would like an extension of the fence.

Mr. Pharis stated his firm separated all of the parcels and came before the board in 2006 for approvals. At the hearing, Mike Yoder spoke in favor of the process that they had gone through. Mr. Pharis stated the covenants and restrictions do not permit building an accessory structure only on a parcel. He went on to say it is his understanding that the lady who bought the parcel has only put up a barn. Mr. Pharis explained that Linda Mayberry is stating she wants Mr. and Mrs. Burns to build a fence if she decides to build a house. Mr. Pharis stated he thinks if Linda Mayberry wants to build a house on the parcel, and if she wants the fence extended, she should be the one putting it up.

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** 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 warehousing and storage in an A-1 zone 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 3/14/16) and as represented in the Special Use application.
2. Approved for the owner/occupant of the residence.
3. Approved for a period of three years with renewal before the Elkhart County Advisory Board of Zoning Appeals.
4. Approved for the outside storage of up to four licensed trailers at any given time which trailers are only to be parked on the west side of the building designated as the “pole barn & residence combined” on the site plan.

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

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

17. The application of *Charlie W. Whitaker* for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the 275 ft. North of SR 120, 830 ft. East of CR 131, in York Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #00000SR 120-160314-1*.

There were seven neighboring property owners notified of this request.

Charlie Whitaker, 15045 SR 120, came on to be heard. Mr. Whitaker stated he would like to build a pole barn on his parcel, and the staff would like him to place the pole barn on the property line; joining the two parcels. He went on to say that he does not want to place the pole barn on the property line where his house is located, because the parcel that he would like to place the pole barn on has already been paid off. Mr. Whitaker explained if something were to happen with his mortgage he would not want to lose his house, the land and his pole barn. Mr. Whitaker stated he does not understand why he cannot place the pole barn on his vacant parcel because it is not affecting anyone. Mr. Campanello confirmed which parcels Mr. Whitaker owns. Mr. Whitaker stated the pole barn would be nicely built and would be better than some of the homes on State Road 120. He went on to say the pole barn will cost him approximately \$30,000 and will be built by a construction company. Mr. Whitaker stated he is looking to store some of his personal items in the building to make his residence look clean. Mr. Hesser stated the Zoning Ordinance does not allow an accessory structure to be placed on a parcel without a residence, and that is why the staff recommended denial and suggested the structure be placed on the property line to join together with the parcel where the house is located. Mr. Whitaker stated he has things to store in the building and he does not know why it would hurt or bother anyone to put the structure on the parcel. Mr. Hesser stated if Mr. Whitaker were to be allowed to build the pole barn and at some point in the future he could sell the property to someone else who did not own a house next door to it; that is something that is not allowed. Mr. Whitaker stated he may

want to put a house on that parcel for his daughter some day in case he were to get sick so that she could take care of him.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated the problem could be solved if they consolidated the lots. He went on to say that he understands Mr. Whitaker's concern about wanting to keep the land debt free, but that is a choice Mr. Whitaker is making.

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

**Motion: Action:** Denied, **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 without a residence be denied.

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

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

18. The application of *Michael L Closson* for an amendment to an existing Use Variance for a lawn service business to allow additional outside storage on property located on the Southwest corner of CR 31 and CR 20, common address of 58573 CR 31 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 #58573CR 31-160314-1*.

There were 12 neighboring property owners notified of this request.

Mr. Kolbus questioned if the commitments are being carried over from previous petitions. Mr. Auvil replied yes, and everything is the same except that commitment #2 and #3 have been amended. Mr. Miller questioned if there are any commitments that are required to protect the property next door. Mrs. Weirick questioned if a home workshop business limits the number of employees. Mr. Auvil stated this petition was an approved Use Variance and the number of employees is the number that Mr. Closson agreed to. He went on to say that this is a lawn care business and their operation is conducted off-site. Mr. Auvil stated the reason for the amendment is because on the original Use Variance site plan, there was an error on the dimensions designated for parking on the side of the building by County Road 20 and they are also requesting to add a concrete parking area in front of their porch.

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

Laquita Closson, 58573 CR 31, Goshen, came on to be heard. Mrs. Closson stated the reason they are petitioning today is because she put the incorrect amount of distance from the center line of the road to the pole barn. She went on to say that they have not been able to use the space because of the error on the submitted site plan. In addition to correcting the setbacks, they are requesting to add a concrete parking area as well. Mr. Miller confirmed they are not looking to change anything, they are just asking for permission to use what is already there. Mr. Kolbus questioned if there are trees separating the area that is being designated for parking on

the side of the building by County Road 20. Mrs. Closson confirmed there is a tree line, and it is over 75 ft. from the road.

Mr. Auvil presented a letter submitted by Linda Mayberry, 58635 CR 31, Goshen, in support of the petition *[attached to file as Staff Exhibit #1]*. The letter stated Linda Mayberry is in support of the petition and has no problem with the amendments that Mr. and Mrs. Closson are petitioning for.

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 amendment to an existing Use Variance for a lawn service business to allow additional outside storage be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 3/14/16) and as represented in the Use Variance application.
2. Vehicle parking is permitted between the accessory building and CR 20, per parking area shown on site plan.
3. Expansion of the cement area in front of covered porch on the accessory building is permitted to accommodate vehicle parking as shown on the site plan.
4. The lawn service business is limited to six full-time outside employees and two part-time outside employees.
5. The hours of operation of the lawn service business at the Real Estate are Monday through Sunday, sun up to sun down.
6. No grass clippings or debris may be stored or placed on the Real Estate.
7. Backing out or backing in of vehicles onto/from CR 20 is prohibited; grantor to provide turnaround on the Real Estate.
8. All equipment and supplies, not including commercial vehicles, shall be stored within the accessory building.

**Vote:** Motion passed (**summary:** Yes = 3, No = 0, Abstain = 1).

**Yes:** Tony Campanello, Roger Miller, Suzanne Weirick.

***\*\*It should be noted Mr. Hesser returns to the board at this time.\*\****

19. The request for minor change for Dallas L. and Karen M. Pletcher was previously heard as item #12 on page 8.

20. The request for minor change for Gateway Properties (Land Contract Purchaser) and Barry Newberry (Land Contract Holder) was previously heard as item #13 on page 8.

21. The meeting was adjourned at 11:04 A.M.

Respectfully submitted,

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Amanda Denlinger, Recording Secretary

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Randy Hesser, Chairman

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Tony Campanello, Secretary