

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19TH DAY OF MAY 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: Jason Auvil, Zoning Administrator; Liz Gunden, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

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 21st day of April 2016 be approved as read. The motion was carried with a unanimous roll call vote.

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

4. The application of ***Dale H. McDougle and Wilma S. McDougle*** for a 25 ft. Developmental Variance to allow for the construction of an addition to the attached garage of an existing residence 25 ft. from centerline of the right of way of Sunset Lane (Ordinance requires 50 ft.) on property located on the Southwest corner of Lagoon Road and Sunset Lane, common address of 54303 Lagoon Rd 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 #DV-0120-2016*.

There were six neighboring property owners notified of this request.

Dale McDougle, 54303 Lagoon Rd, Elkhart, came on to be heard. Mr. McDougle stated he would like to add a third stall onto their garage, located on the north side of their house. He went on to say the addition would begin approximately 8 ft. behind the front of the house. Mr. McDougle submitted pictures showing where the addition would be built [*attached to file as Petitioner Exhibit #1*]. When a car is parked in the driveway, he stated it blocks the intersection more than the proposed addition would. Mr. Lyon questioned the distance between the proposed addition and the property line on the North side.

James Beck, 60653 Ashton Way, Elkhart, came on to be heard. Mr. Beck stated the garage will be 24 ft. long and 13 ft. wide. He went on to say moving the garage back 8 ft. will create more sight coming around the corner than having a vehicle parked in the driveway. Mr. Beck stated there is a 25 ft. right-of-way from the centerline of the road on Sunset Lane. He went on to say the reason Mr. McDougle is requesting the variance is because the proposed addition will be in the right-of-way. Mr. Lyon questioned the distance from the existing garage to the property line. Mr. Beck stated he believes the garage is 45 ft. from the centerline of the road. Mr. Hesser confirmed the submitted site plan shows 39 ft. from the centerline of the road. Mr. Lyon stated he believes staff is recommending denial because it is too close to the property line. Mr. Beck stated it will be right up to the easement. Mrs. Weirick questioned if Mr.

McDougle has spoken to his neighbors about this request. Mr. McDougle stated that he has talked to his neighbors and no one has an objection to it; there was a couple that stated if a shed is built it will block the view of the Lagoon area, so they opted for the garage that sits out of the way instead. Mr. Campanello confirmed the garage will come out 14 ft. from his house and there will still be grass on the other side of the proposed garage. Mr. McDougle stated there will be approximately 10-12 ft. of green on the side of the proposed garage. Mr. Kolbus stated it is still the right-of-way, however it is not paved. Mr. Lyon questioned if the petitioner is aware that he may have issues reselling the property in the future as one banker may not finance a loan due to the fact that the structure would be in the right-of-way. Mr. McDougle stated he was not aware.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he appreciates their effort to move the structure back from the corner of the road, however looking at the overview of the neighborhood he does not see anyone that has pushed it that close. Mr. Campanello stated he is trying to find a way to approve and overturn the staff recommendation of denial, however there is no basis to do that.

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

Motion: Action: Denied, **Moved by** Denny Lyon, **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 25 ft. Developmental Variance to allow for the construction of an addition to the attached garage of an existing residence 25 ft. from centerline of the right of way of Sunset Lane (Ordinance requires 50 ft.) be denied.

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

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

5. The application of *Griner Mennonite Church* for an amendment to an existing Special Use for a church for the addition of three recreational vehicle parking spaces and an enclosed pavilion on property located on the East side of SR 13, 2,665 ft. East of CR 37, common address of 12418 CR 20 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0107-2016*.

There were 11 neighboring property owners notified of this request.

Del Miller, 12418 CR 20, Middlebury, came forward representing Griner Mennonite Church. Mr. Del Miller stated there was an error in what was presented and clarified they are not looking for an RV park. He went on to say that Griner Mennonite Church has occasional ministries that come in and do weekend meetings; sometimes week long services. Mr. Del Miller stated the request is for one motor home and sometimes two; rarely three. He went on to say in the month of April they typically have a weeklong series of missions that come in from Canada, Phoenix, Ohio, and other areas where they present their ministries to the community. Mr. Del Miller explained that this may only happen three times a year; however they feel it would be appropriate for Griner Mennonite Church to allow the ministries to park on location during their stay and provide them access to water and a dump station. He went on to say that in the application he noted that they would use the existing septic system. With their well on the

existing property, they will vacate the well and tear it out. He went on to say they will do an under boring through the asphalt and tap onto the church's existing well. Mr. Del Miller stated the lift station would be located on the Southeast corner of the parking lot where the existing septic is located. He went on to say the proposed activity may not be used more than once a year and confirmed this will not be a campground. Mr. Del Miller stated that he heard someone mention they heard of talk about a shed going up, and he stated this is not in their plans; however they would propose constructing a pavilion that would have the same characteristics of the church building. He stated their goal is to make the property look better than it does today, and allow ministries the convenience of utilizing the facilities. As Griner Mennonite Church has the funding available and a desire to provide more conveniences to the different ministries coming into the community, they want to move forward with what has been proposed with the understanding that it may be used a maximum of six times a year, and the lift station may not be used at all. Mrs. Weirick questioned if there is a way to accomplish the main goal without adding or adjusting the septic and water. Mr. Del Miller stated there is probably a way to allow them to hook up to the existing septic and water; however from a church standpoint it is appropriate to offer the convenience and services to the ministries coming into the community.

Linford Martin, 12401 CR 20, Middlebury, came forward in remonstrance. As the proposed activity will be in his front yard, he stated the project will have substantial detriment to the value of his property. Mr. Martin went on to say there is a retention pond behind their building that the church uses, and it is supposed to handle up to an inch and a half of rain; however if it rains more than an inch and a half there is flooding affecting the neighboring properties. He went on to say the submitted site plan shows a driveway being along the East side of the property and stated that the driveway will not be used to park the RV's. Mr. Martin stated there will be three new driveways added onto CR 20 and because the existing driveway only goes back to their existing shed, there will be no room for someone to pull into that driveway and park their RV. Mr. Miller confirmed Mr. Martin is stating they are going to be pulling off of CR 20 onto the property. Mr. Hesser confirmed the property to the East is a residence. Mr. Martin stated the building they are looking to put up is 75' x 35' and is as big as a house. He went on to say the dump station will be approximately 30 ft. from his mailbox.

Mr. Del Miller stated he respects what Mr. Martin said; however there will not be three driveways. At the time they purchased the property, it came with a mobile home and an existing driveway on that same side. He went on to say they anticipate using the existing driveway and if they are unable to do so, they are open to any suggestions the board might have. Mr. Del Miller stated the lift station will be located by the septic; found on the South side of the church building. He went on to say they have done a lot of work excavating the property and they want to be good neighbors. Mr. Del Miller went on to say they have tiled the ground in order to channel water to proper areas; getting the runoff from the parking lot into the retention area so it does not overflow across the road. He went on to say they are asking for some consideration as the RV's will not be parked there for 30 days at a time as it is not a campsite; it is overnight parking. If there were any recommendations or suggestions the Board of Zoning Appeals might have for Griner Mennonite Church, Mr. Del Miller stated they would be interested in exploring other options. Mr. Hesser questioned who owns the parcel located Northeast of Griner Mennonite Church. Mr. Martin stated the building is an alternate energy facility.

Mr. Lyon asked the staff if there is any way to give a limited amount of days they are able to have the RV's parked. Mr. Kolbus stated a condition can be made stating it can only be used a specific amount of time per year. He went on to say that enforcing the condition would be a separate issue. Mr. Martin stated his concern is there is nothing blocking the view of the activity from his property. Mr. Del Miller stated they are willing to do whatever is needed; privacy fence, shrubs, or trees. He went on to say they keep their property neatly manicured, and they desire to be an asset to the community; not a detraction.

The public hearing was closed at this time.

Mr. Auvil stated the scenario Mr. Del Miller explains is okay; however it raises a lot of issues. He went on to say the investment for a lift station is not cheap, and there is no way to control or regulate the use. Mr. Auvil stated he is concerned that there will be trailers parked on the property all year. There was further discussion amongst the staff regarding the request and site plan.

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

Motion: Action: Denied, **Moved by** Denny Lyon, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use for a church for the addition of three recreational vehicle parking spaces and an enclosed pavilion be denied.

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

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

6. The application of *Daniel D. Day and Deborah M. Day* for an amendment to an existing Special Use for a home workshop business for a wood working shop to (1) increase the number of employees from 0 to 2, (2) change the business activity from hardwood panel and computer table manufacture to storage shed manufacture, (3) add an outdoor display of one shed (onsite product), and (4) add an additional sign on property located on the East side of CR 45 (Florence Ave), 3,260 ft. Southeast of US 20, common address of 24257 CR 45 in Concord Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0119-2016*.

There were seven neighboring property owners notified of this request.

James Forsythe, 27425 Cobblestone Way, Elkhart, came forward representing the petition. Mr. Forsythe stated he would like to correct something in the petition. He explained the petition states they are changing the business activity from hardwood panel and computer table manufacture to storage shed manufacture; however they are not looking to change the business activity they would only like to add storage shed manufacture to their existing business activity. Mr. Hesser questioned if this information will change the staff's recommendation. Mr. Auvil replied no. Mr. Forsythe stated they are looking to continue their business they have now; add the additional product line, and display one of their products in the front as indicated on the site plan so individuals driving on CR 45 can see what they do. Mr. Hesser stated in the submitted application, he indicated one to two semi-truck deliveries a week. Mr. Forsythe confirmed if they get busy enough in the wood barn business, they will have wood delivered, however they also have the capacity to get it themselves. Mr. Hesser questioned where the semi-

trucks will turn around on the property. Mr. Forsythe stated the semi-trucks would have to back onto the property. Mr. Campanello stated the property is on a very busy road and suggested to create a turnaround for trucks. Mr. Lyon confirmed CR 45 is a very busy corner. Mr. Forsythe stated he can make it mandatory that the deliveries be made by a straight truck that has the ability to turn around.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he would require the petitioner to create a turn around and give him a reasonable amount of time to allow for the construction of the turnaround. Mr. Forsythe stated there is room on the property to create a turnaround, however it would greatly adverse the aesthetics of the property as it would tear up the front yard. He went on to say they can agree not to have deliveries made by large trucks as a turnaround would be very hard to accommodate.

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

Motion: Action: Approve, **Moved by** Denny Lyon, **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 an amendment to an existing Special Use for a home workshop business for a wood working shop to (1) increase the number of employees from 0 to 2, (2) change the business activity from hardwood panel and computer table manufacture to include storage shed manufacture, (3) add an outdoor display of one shed (onsite product), and (4) add an additional sign 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 4/18/16) and as represented in the Special Use application.
2. Backing out or backing in of vehicles onto CR 45 is prohibited.

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

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

7. The application of *Tailwinds Homes (Landowner) and Ashley Meadows (Occupant)* for a Special Use to allow for an agricultural use (keeping of goats, chickens and rabbits) on a tract of land containing less than three acres on property located on the North side of CR 104, 550 ft. West of CR 15, common address of 22611 CR 104 in Osolo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0118-2016*.

There were 16 neighboring property owners notified of this request.

Ashley Meadows, 22611 CR 104, Elkhart, came on to be heard. Ms. Meadows stated her children are in 4-H and she is looking to have farm animals. She went on to say that she is willing to put up a fence along one side of the property and the neighbors to the rear have horses. Mr. Campanello confirmed that Ms. Meadows has no issue with the commitment made by staff limiting the amount of animals.

Chad Snyder, 22611 CR 104, Elkhart, came on to be heard. Mr. Snyder stated the animals would be in the back of the property, and he does not foresee any issues with the animals bothering their neighbors. Mr. Snyder confirmed they will get rid of the rooster if the petition is approved.

Denise Chupp, 22647 CR 104, Elkhart, came on in remonstrance. Ms. Chupp stated she lives two houses down from the subject property and has lived in the area for 21 years. She went on to say she does not agree with the petition. Ms. Chupp stated she has heard the roosters and goats and believes there are too many animals for the size of the property. She went on to say the neighbor to the North owns horses; however she also has a six acre parcel. Mr. Campanello questioned if anyone else in the neighborhood has chickens. Ms. Chupp replied there is one neighbor who owns chickens. She went on to say that she hears the rooster all day long and has fibromyalgia. Mrs. Weirick confirmed that Ms. Chupp understands that the rooster will not be permitted on the property if this petition is approved. Ms. Chupp stated she still believes there are too many animals and went on to say that if they cannot park their cars in the driveway they shouldn't have that many animals. Ms. Chupp stated they are doing this for an agricultural thing and this is not right. She went on to say that she has lived in the neighborhood for 21 years and never had any issues with animals.

The public hearing was closed at this time.

Mr. Campanello stated in the past they have approved petitions with this same lot size and for more animals than Ms. Meadows is requesting. Mrs. Weirick stated she thinks the primary concern is the noise of the rooster that has been heard from even inside the house; however that will go away with the commitment proposed by staff. She went on to say that the goats will still be there.

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 to allow for an agricultural use (keeping of goats, chickens and rabbits) 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 4/18/16) and as represented in the Special Use application.
2. The agricultural use is limited to four goats, eight rabbits, and four chickens, no roosters.

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

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

8. The application of *Jose Romeo Pineda (Buyer) and Willie's Construction Company, Inc. (Seller)* for a Special Use for an agricultural use for the keeping of chickens in an R-1 district and a Special Use for a roadside stand on property located on the Southwest corner of CR 18 and CR 13, in Concord Township, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0124-2016*.

There were 20 neighboring property owners notified of this request.

Jose Pineda, 57030 Wedgefield Ct, Elkhart, came on to be heard. Mr. Pineda stated he would like to purchase the subject property and grow crops. He went on to say he would like to build a house and barn, and start a small business. Mr. Pineda stated he would like to create a parking lot on the side of CR 18 to avoid interfering with traffic. Mr. Miller questioned the amount of chickens they are requesting. Mr. Pineda stated they are looking to raise 5-10 chickens for personal use. Mr. Miller confirmed that Mr. Pineda will not be raising chickens for purchase. Mr. Hesser stated the Special Use application says Mr. Pineda is not interested in putting up a sign. Mr. Pineda stated if he is required to put one up he will. Mr. Hesser confirmed a sign is not required. Mr. Pineda stated the stand will be on the side of the road and will be conducted as a family business. Mr. Hesser stated if Mr. Pineda indicates that he does not want a sign, that means he cannot put up a sign unless he comes back to the board for an amendment. Mr. Pineda stated he understands.

Mr. Auvil presented a letter submitted by Kim Yoder, 59752 CR 13, in support of the petition. *[attached to file as Staff Exhibit #1]*.

Ronald Swinehart, 24157 CR 18, Elkhart, came forward in remonstrance. Mr. Swinehart stated owns a house across from the subject parcel. He went on to say he did not receive the notice of the public hearing until Monday, May 16, 2016, and his neighbor did not receive his notice as it went to another neighbor. Mr. Auvil stated Elkhart County has statutory commitments for the public notice in the local newspapers and the mail delivery issue is a postal service issue. Mr. Hesser stated Elkhart County is legally not required to mail notices and questioned how far in advance the letters are sent out. Mr. Kolbus stated the letters are placed in the mail 10 days before the hearing. Mr. Swinehart stated the letter he received is dated May 9, 2016, and he did not receive the letter until May 16, 2016. Mr. Swinehart went on to say that the land is residential and questioned if the board will allow commercial use to be conducted there. Mr. Campanello stated the petitioner is requesting an agricultural use and when a Special Use permit is obtained, the use is allowed in a residential zone. Mr. Swinehart questioned who will police the amount of chickens Mr. Pineda will have. Mr. Campanello stated if the petition is approved, a commitment will be given and there will be a restricted number of chickens the petitioner will be allowed to have. Mr. Swinehart went on referencing the site plan submitted by Mr. Pineda and stated Mr. Pineda is proposing a 1,300 sq. ft. house, a 1,500 sq. ft. barn, and a moveable greenhouse. He went on questioning who will control the amount of people that will reside there. Mrs. Weirick questioned staff regarding the amount of square footage Mr. Pineda is requesting and if Mr. Pineda will be in compliance with the ordinance. Mr. Auvil stated Mr. Pineda is allowed to have up to 200% of the living area in his house in accessory structures. He went on to say the ordinance does not include agricultural structures in the 200% if this use is declared agricultural.

Mr. Campanello asked Mr. Swinehart if he had any additional questions. Mr. Swinehart stated he is concerned with the amount of traffic during certain times of the day. Mr. Campanello stated if the land were to be a subdivision we would be presented with the same problem, and with a subdivision there would be more traffic going in and out. Mr. Swinehart stated he disagreed as the traffic would not be coming in and out of one area. Mr. Campanello

stated the conversation is not regarding the traffic as this request is for a single home and there is an area for traffic to turn around. Mr. Swinehart stated the land was just rezoned to residential and now the same person wants to turn it around again for his benefit.

Sara Rubenstein, 57640 CR 13, Elkhart, come on in remonstrance. Mrs. Rubenstein stated she would like to know what type of animals will be placed on the property, as she has asthma and is concerned with potential smells. She went on to say she is okay with a few chickens; however she would like to know exactly what the operation will be. Mrs. Rubenstein stated her next door neighbors have a lot of people living in their house, and it is getting to be trashy. She went on to say she is concerned that this will happen at the subject property which is across the road from her house.

Raymond Rubenstein, 57640 CR 13, Elkhart, come on in remonstrance. Mr. Rubenstein stated his primary concern is the traffic as it is a heavily congested area with train tracks at the end of CR 18 and CR 13. He went on to say if commercial buildings continue to develop the traffic will be outrageous. Mr. Rubenstein stated there are young children in the area and he is concerned with potential businesses might be interested in the area.

Mr. Swinehart questioned if the petition were to be approved would an extension be granted to allow time for his neighbors to get together and talk about the petition.

Jim Weeber, 57564 CR 115, Goshen, came on to be heard. Mr. Weeber stated the County Commissioners and County Council have appropriated approximately \$60,000.00 to study the traffic congestion directly to the East of the subject property and the results are due soon. He went on to say Concord Fire Department makes approximately 1,400 runs per year; 85% of them are EMS runs and the remainder usually involves Ambulance and Fire. Mr. Weeber stated the majority of the said traffic runs through the area of the subject property. He went on to say a minimum of two times a day the traffic backs up to the entrance of Hively Crossings subdivision; when Hively Crossings was put in, there was a lot of discussion regarding how it would affect the intersection of CR 13 and CR 18. Mr. Weeber stated city water comes down Middleton Run Road, and traverses the North side of the DeCamp Bridge; servicing the Concord Fire Department and several homes. He went on to say city water crosses the street and there is a fire hydrant located on the corner of CR 13 and CR 18. Mr. Weeber questioned if the subject property will be required to hook onto city water. He went on to say another item he would like to question is the petitioner stated there will be a parking lot and some commercial activity; he went on to question if this property will be accessed a storm water partnership fee instead of a residential fee. Mr. Weeber stated if he would have known this parcel would be zoned commercial, he would have purchased it a long time ago. Mr. Hesser questioned if Mr. Weeber is familiar with the property and how it is used right now. Mr. Weeber stated he farmed the property for a long time. Mr. Hesser questioned if the land is still being used as farm land. Mr. Weeber stated it has not been farmed this year but has in recent years.

Mr. Pineda stated he does not think there will be major issues with what he is requesting. He went on to say the property is large and what he intends to do will improve the area as he will keep the property nice and clean instead of it being an abandoned overgrown lot. Mr. Hesser questioned the amount of chickens he intends to have. Mr. Pineda stated the maximum amount is 10. Mr. Lyon questioned how far from the centerline of the road will the house be. Mr. Pineda stated he is unsure at the moment but can follow up with the details at a later date as he is before the board today only to gain approval for the proposed use before he proceeds in

purchasing the property. He went on to say he will easily conform to whatever setbacks he is required to abide by. Mr. Miller confirmed that Mr. Pineda will have actual plans drawn up. Mr. Hesser questioned if the board were to have Mr. Pineda submit a revised site-plan would it be necessary to re-open the public hearing to accept it. Mr. Kolbus stated it generally comes back as a staff item and not a public hearing item.

The public hearing was closed at this time.

Mr. Hesser stated his biggest concern is regarding site plan and more formal parking area is needed. He went on to say the site plan will deal with the other issues regarding the size and locations of the buildings and the limitation of animals. Mr. Hesser added that he does not see the proposed use as a big commercial enterprise; however it is an agricultural use. Mrs. Weirick stated she would like to add that there are no roosters. There was further discussion amongst staff regarding the zoning of surrounding areas.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of chickens in an R-1 district and a Special Use for a roadside stand 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. Petitioner to provide a revised site plan for approval at a public meeting with details regarding parking, hours of operation, signage, etc.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted and as represented in the Special Use application.
2. Limited to 10 chickens, no roosters.

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

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

9. The application of *Orva M. Lehman and Mary Lehman, Husband and Wife, Both Adults* for a Special Use for a social service establishment (workshop for handicap individuals) on property located on the East side of CR 45, 1,060 ft. North of CR 28, in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0125-2016*.

There were five neighboring property owners notified of this request.

Mervin Stoltzfus, 60112 CR 41, Middlebury, came forward representing petitioner. Mr. Stoltzfus stated the address we have on file is supposed to be CR 43, not CR 45. He went on to say the workshop they are in now is in another location and they have outgrown it. Mr. Stoltzfus went on to say they would like to put up new building to accommodate their growth. They had Blake Doriot take a survey of the land and they would only want to use one and a half acres of the eight acre parcel. Mr. Auvil stated Mr. Doriot will submit the survey and they will then

accomplish this through an administrative subdivision; staff has no issues regarding this. Mr. Hesser questioned what the individuals will be packaging and repackaging as stated in the questionnaire. Mr. Stoltzfus stated he will have one of the gentlemen from the workshop explain their operation. Mr. Hesser questioned another section indicated in the questionnaire stating there will be six parking spaces, and on the site plan it shows five parking spaces. Mr. Stoltzfus stated there will be additional parking spaces added once the survey comes back, and they are able to do everything for state. He went on to say the employees are dropped off by a van, so they do not need one parking spot per employee. Mr. Campanello stated when the drawings go to state they will have to show parking no matter what.

Lloyd Miller, 13705 SR 4, Goshen, came on to be heard. Mr. Miller stated he is the supervisor of the workshop where the individuals package and unpacked various things from Jayco, Forest River, and various wood shops; sometimes they sort screws and bolts. Mr. Hesser confirmed they package the products and then ship them back to the companies. Mr. Lloyd Miller stated the reason they are taking this endeavor is because they have been renting a space since 2013; for the safety of their clients and to provide more space, they would like to move forward in building this structure. He went on to say they started the operation with 10 clients and as of now they have 17 clients.

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 social service establishment (workshop for handicap individuals) 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 4/18/16) and as represented in the Special Use application.

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

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

10. The application of **Dave Stalter** for a Special Use for a wireless communications facility on property located on the North side of SR 119, 2,805 ft. West of CR 17, common address of 22625 SR 119 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 #SUP-0130-2016*.

There were five neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering and Surveying, 1009 South 9th Street, Goshen, came forward representing the petitioner. Mr. Pharis stated they came before the board in December and in that meeting staff asked that they withdraw the request for the tower because the state was going to impose new conditions and rules. He went on to say the rules were issued

in January and since then they have been working on getting a letter from the FAA that states they are not interfering with the air traffic in Goshen. Mr. Pharis stated they are asking for a 100' tower to be located in the Northern area of the subject property. He went on to say this area has difficulty obtaining quality wireless internet. Mr. Pharis explained that Mr. Stalter has invested in this tower and has offered all of his neighbors the opportunity to connect to the tower. At the hearing in December, every neighbor within 1,000 ft. had signed a paper requesting this petition be approved. Mr. Hesser questioned who the internet provider will be. Mr. Pharis stated Copper Wireless will be installing the device on the tower.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** 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 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 4/18/16) and as represented in the Special Use application.

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

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

11. The application of **Big M Inc.** for a Special Use for warehousing and storage in an A-1 zone on property located on the East side of SR 13, 3,000 ft. South of SR 120, in York Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0162-2016*.

There were seven neighboring property owners notified of this request.

Barry Pharis of Brads-Ko Engineering and Surveying, 1009 South 9th Street, Goshen, came forward representing the petitioner. Mr. Pharis stated Marv Schmucker is not only a home builder and a subdivision developer; he is a contractor for underground installation of pipes. He went on to say in the past they developed a subdivision as a DPUD called Anchor Ridge for Mr. Schmucker. Mr. Pharis stated Mr. Schmucker purchased land that is adjacent to his home and most of it is unbuildable, as it is a wetland. He went on to say Mr. Schmucker wanted the land so that he can spend time with his family hunting mushrooms. Mr. Pharis explained this property has an access point on SR 13 and someone approached Mr. Schmucker to purchase the land as they wanted to build a residence on it. He went on to say they filed an administrative subdivision because the property is served by an easement that goes out to SR 13. They came before the Hearing Officer May 18, 2016, and obtained approval. Mr. Pharis stated they have created two residential lots exceeding three acres so that Amish can buy the land and have horses. He went on to say that Mr. Schmucker would like move his business of homebuilding

retail sales, construction, and underground, onto the subject parcel. Mr. Pharis stated they are proposing to construct a building on Proposed Lot 3 that will meet the proper requirements for parking, and to have outside storage for equipment; however it will be completely blocked by the buildings and plantings so it is not visible to the neighbors. He went on to say that Mr. Schmucker has already spoken with the potential buyers of Proposed Lot 4 and they have agreed to share a driveway onto SR 13. Mr. Pharis stated if the petition is approved today, he will have an attorney prepare a cross easement/ cross maintenance agreement that identifies the responsibilities and cost association for both parties to use a common entry point. He restated Mr. Schmucker would like to build his business on land that is adjacent to his home so that he can consolidate everything.

Mr. Campanello questioned the 1,000 sq. ft. home proposed on the site plan. Mr. Pharis stated in order to build an accessory structure on the land; it has to have a primary residence. He went on to say that is why they are proposing a 20,000 sq. ft. building; 9,000 sq. ft. for office and storage; 1,000 sq. ft. for residential, and 10,000 sq. ft. for inside storage. Mr. Hesser confirmed the access to the road will be made available by an easement. Mr. Pharis stated they have more than enough frontage and they would like to share the driveway. Mr. Hesser questioned the number of employees and the amount of parking spaces stated on the application. Mr. Pharis confirmed that there will be more parking spaces on the property than what is stated in the application, as shown on the site plan.

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 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 4/28/16) and as represented in the Special Use application.

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

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

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

12. The application of **Christina Bralick** for a Special Use for a home workshop/business to allow for the manufacturing of pet houses, including storage containers for building materials, office, cat recovery area and boarding operation for cats, and for a Developmental Variance to allow the total sq. ft. of accessory structures to exceed the total sq. ft. allowed based on living area in the existing residence on property located on the Southwest side of CR 1, 1,400 ft. Southwest of CR 10, common address of 53290 CR 1 in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0126-2016*.

There were 27 neighboring property owners notified of this request.

Kevin Yoder of R Yoder Construction, 27453 CR 150, Nappanee, came forward representing the petitioner. Mr. Yoder stated Ms. Bralick works with a nonprofit who works with feral cats in the community. He went on to say they plan to use the proposed storage containers for storing materials only. Mr. Yoder explained there are no employees and only community help. He went on to say there are different phases they want to implement and each phase will be presented so that the full plan can be understood. Their one to two year plan is to get the storage containers onsite for the purpose of storing materials; their three to five year plan is to create a permanent structure that would consist of bathrooms and an office; their five to ten year plan would be creating 12' x 20' boarding houses. As the nonprofit works with spay and neutering for feral cats, they would send the cats to the vet and then provide boarding for recovery at their boarding houses until they are able to return them.

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** 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 to allow for the manufacturing of pet houses, including storage containers for building materials, office, cat recovery area and boarding operation for cats 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.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 4/18/16) and as represented in the Special Use application.

The motion also included the request for a Developmental Variance to allow the total sq. ft. of accessory structures to exceed the total sq. ft. allowed based on living area in the existing residence be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 90 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the building permit (where required).
2. Approved in accordance with the site plan submitted (dated 4/18/16) and as represented in the Developmental Variance application.

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

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

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

13. The application of **Joe W. Bailey** for a Use Variance to allow for the construction of a third residence on a single zoning lot on property located on the East side of CR 19, 575 ft. North of CR 20, common address of 58822 CR 19 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0092-2016*.

There were 15 neighboring property owners notified of this request.

Joe Bailey, 58822 CR 19, Goshen, came on to be heard. Mr. Bailey stated there are two homes on the property; one house is in bad condition so he would like demolish the house and build a new 1,800 sq. ft. home. The second house is a rental property, and as soon as the tenant either retires to Arizona or passes away, the house will be demolished. Mr. Bailey stated when he purchased the property, the parcel had three barns and five silos on it, and now it presently has two homes, one silo, and a barn. He went on to say the silo will be demolished prior to constructing the new house. Mr. Bailey stated the barn has been completely renovated with new siding, new concrete floors, and four new horse stalls.

Todd Meier of Team Construction, 55741 Pyrenees Pl, Middlebury, came on to be heard. Mr. Meir stated Team Construction will be the contractor constructing Mr. Bailey's home. He went on to say they will not have anything to do with the demolition; however once the construction is finished it will vastly improve the area.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Suzanne Weirick, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of a third residence on a single zoning lot 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. Structure 'B' must be removed within 30 days of the issuance of the Certificate of Occupancy of the new residence.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 4/7/16) and as represented in the Use Variance application.
2. Petition to be reviewed before the Board of Zoning Appeals every two years until the termination of the life lease.

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

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

14. The application of **Heather C. Johnson and Jeffrey K. Johnson** for a Use Variance to allow for the construction of a residence on property not subdivided in accordance with the subdivision control ordinance on property located on the South of CR 40, 3,035 ft. West of CR 37, in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0106-2016*.

There were five neighboring property owners notified of this request.

Heather Johnson, 16165 Easton Ct, Goshen, came on to be heard. Mrs. Johnson stated her parents own the property to the East of her parcel, and they want to build a single home on the center parcel. She went on to say they talked with the neighbors to make sure there was not going to be any issues prior to coming before the board. Mrs. Johnson stated her father's health is deteriorating and it is becoming too difficult to take care of their property; from an inheritance stand point their property will become hers. She went on to say they are wanting to build next to her parents in order to help take care of them as they do not want to go to any type of nursing facility. Mr. Hesser confirmed they could still go through the administrative subdivision process and questioned if Mrs. Johnson had thought about doing that. Mrs. Johnson stated if the petition were to be denied they would move forward with the administrative subdivision process.

Mr. Hesser questioned who the owner of the property is. Mrs. Johnson replied she and her husband received the property as a gift from her parents. Mr. Campanello stated the proper way her parents should have given the property is by subdividing the parcel and creating a minor subdivision prior to giving it to them. Mrs. Weirick questioned who advised Mrs. Johnson to file the petition in this form. Mrs. Johnson stated when Mr. Schrock had talked to the county he was told as long as he did the soil borings to check if the parcel would be allowed to have a septic system that there would not be an issue with the permit. They then came to the county building to get a permit and they were told they needed to undergo the variance process. Mr. Hesser questioned who owns the property to the south. Mrs. Johnson stated it is not her parents' property. Mr. Auvil stated the property was split back in 1989 where they had an agriculture use for horses, and that is not the issue. He went on to say it becomes an issue when they want to make it a buildable lot. Mr. Campanello stated they need to go before the Plan Commission and have it subdivided so it becomes a buildable lot and then obtain the permit.

Dean Sprunger of Schrock Homes, 2523 Messick Dr, Goshen, came on to be heard. Mr. Sprunger stated Schrock Homes will be the builder of the new home. He went on to say it sounds like they need to go through the minor subdivision process. Mr. Sprunger questioned if there is a way for Mr. and Mrs. Johnson to obtain a foundation release while the subdivision is in process as they have a signed contract. Mr. Lyon stated the subdivision process does not usually take a lot of time to accomplish.

Rodney Speicher, 13540 CR 40, Goshen, came on to be heard. Mr. Speicher stated Mrs. Johnson is his only daughter and he deeply appreciates her willingness to build next to them so that she can be there for them when they are in need of help. He went on to say he would appreciate it if they could obtain approval for their petition and make it a fast process.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he does not see a problem with what they are proposing aside from doing it correctly and going through the proper process. Mr. Miller stated there is nothing we can do temporarily because we have to approve the designs, and there are none. Mrs. Weirick questioned if there is anything we can give them while they are working out the process so they can get started on their project. Mr. Campanello stated that would be a question for staff.

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 a residence on property not subdivided in accordance with the subdivision control ordinance be denied.

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

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

15. The application of *Lou Ella Nisley, Arlen Nisley, and Nathan Nisley* for a Use Variance to allow for the construction of a second dwelling on a single zoning parcel and for a Special Use to allow for an agricultural use on property containing less than three acres on property located on the Northeast corner of CR 24 and CR 43, common address of 10923 CR 24 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0100-2016*.

There were nine neighboring property owners notified of this request.

Arlen Miller, 2070 N 700 W, Shipshewana, came forward representing the petitioner. Mr. Arlen Miller stated they are looking to build a house on a slab with a small basement. He went on to say the existing house is very old and in bad shape; the north wall of the house could be pushed off the foundation and there is not a single egress window in the whole house. Mr. Hesser confirmed Mr. Arlen Miller is okay with the conditions and commitments imposed by staff. Mrs. Weirick questioned if Mr. Arlen Miller has a problem with the limitation of one horse. Mr. Arlen Miller stated he would like to have 2 horses on occasion.

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 the construction of a second dwelling on a single zoning parcel and for a Special Use to allow for an agricultural use on property containing less than three acres 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 4/12/16) and as represented in the Use Variance application.

The motion also included the request for a Special Use to allow for an agricultural use on property containing less than three acres on the Real Estate 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 4/12/16) and as represented in the Special Use application.
2. The agricultural use is limited to two adult horses.

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

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

16. The application of *Helmut H. McClure and Rosemary G. McClure* for a renewal of an existing Use Variance to allow for the construction of a second dwelling on a parcel on property located on the South side of CR 4, 576 ft. East of CR 29, common address of 15860 CR 4 in York Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0111-2016*. He also noted the petitioners submitted a letter [attached to file as Staff Exhibit #1] requesting the petition be tabled until the June 2016 public hearing.

There were seven neighboring property owners notified of this request.

There were no remonstrators present.

The public hearing remained open.

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

Motion: Action: Tabled, **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 renewal of an existing Use Variance to allow for the construction of a second dwelling on a parcel be tabled until the June 16, 2016, Elkhart County Advisory Board of Zoning Appeals meeting.

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

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

17. The application of *Debbie S. Lewis and Kimberly A. Wingard (Buyers) Ron Payette and Patricia Payette (Sellers)* for amendments to an existing Use Variance for a bulk food store in an R-1 district to change (1) operation hours and (2) employee number and hours on property located on the West side of CR 23, 1,000 ft. North of CR 146, common address of 69295 CR 23 in Jackson Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0129-2016*.

There were nine neighboring property owners notified of this request.

Debbie Lewis, 67070 Brentwood Dr, Goshen, came on to be heard. Mrs. Lewis stated the proposed shed would not have a slab and would be built off site to be used for storage. Mr. Hesser confirmed the shed will not be a new structure. Mr. Campanello questioned if they have purchased the property. Mrs. Lewis stated they are in the process of purchasing the property and are scheduled to close on June 10, 2016. Mr. Hesser stated they are requesting to change the Special Use from one employee to two employees; four part time employees to six part time

employees, and they would like to change the hours. Mrs. Lewis stated they would like to change the hours on Monday through Friday from 7:00 A.M. to 5:30 P.M. in order to provide a grab-and-go breakfast with coffee before school begins and on Saturday from 7:00 A.M. to 1:00 P.M. Mr. Auvil confirmed staff has no issue with the change in hours of operation. Mr. Campanello questioned why they are not going to be open later. Mrs. Lewis stated she and Mrs. Wingard will be the primary working employees in the evenings. Mr. Hesser stated he saw the request for a larger sign. Mrs. Lewis stated the sign will not be moved any closer to the road; however the sign is not very big and when driving by it is hard to see. She went on to say the 4' x 4' sign would not look different than how it is now. Mr. Hesser confirmed the sign would be placed in the same location.

As a community advocate, Mr. Auvil commented that it should be considered to stay open until 6:00 P.M. for people who have to work until 5:00 P.M. If Mrs. Lewis would like to close earlier that is fine; however if they decide to change their hours later, they will have to come back before the board to make the change. He went on to say this is a very popular place, has a lot of business, and he would hate to waste staff time in having to come back before the board and amend the hours of operation. Mrs. Weirick stated she would keep the same hours for Saturday as well. She went on to say the hours would be Monday through Saturday from 7:00 A.M. to 6:00 P.M. and Mrs. Lewis can set her operating hours as she sees fit. Mrs. Lewis stated they are also asking for two full time employees and six part time employees. She went on to say the part time employees would be family. Mr. Hesser confirmed because it is a Use Variance and not a home workshop/business the family members count as employees.

Joseph Yoder, 69283 CR 23, New Paris, came on to be heard. Mr. Yoder went on to say he appreciates the changes they are proposing and is in favor of what they are proposing. Mr. Hesser questioned if Mr. Yoder has any issues with the request to increase the size of the sign. Mr. Yoder stated he has no issues with the size increase and went on to say the sign is hard to read as is.

There were no remonstrators present.

The public hearing was closed at this time.

There was further discussion amongst the staff regarding the operating hours and the size of the sign.

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 amendments to an existing Use Variance for a bulk food store in an R-1 district to change (1) operation hours and (2) employee number and hours 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 4/18/16) and as represented in the Use Variance application.
2. Hours of operation to be Monday thru Saturday 7:00 am to 6:00 pm.

3. Two full time employees and six part time employees allowed.
4. Sign not to exceed 16 sq. ft. and is not to be relocated any closer to the road.

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

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

18. 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.

A motion was made which carried unanimously to reopen the public hearing.

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

Terry Lang of Lang Feeney and Associates, 715 S Michigan St, South Bend, came on to be heard. Mr. Lang stated the purpose of this petition is to take the existing parcel and create two parcels. He went on to say the existing home would sit on approximately a three acre parcel and the remaining property to the North would be available for a new home as prepared on the site plan. Mr. Lang stated they are only proposing to build the existing home and the new home, and the variances being requested are no different than the property immediately to the North where there was a single home built at the end of Leland Rd. Mr. Hesser confirmed there is already a home and barn built on Proposed Lot 1. Mr. Hesser referenced the site plan and stated there is no home shown on Proposed Lot 2. Mr. Lang stated there was a site plan he had submitted to the Planning Department, however he has a copy of the site plan [*attached to file as Petitioner Exhibit #1*].

Richard Rudy, 51835 CR 9, Elkhart, was present in remonstrance. He went on to say his neighbors could not be at the hearing; however he and his neighbors do not want the woods to be cut down. Mr. Rudy stated he has not seen the site plan that Mr. Lang just submitted. He went on to say the company SLG Properties is a commercial builder and that scared him. Mr. Rudy stated as soon as the approval is given there is nothing that will stop them from putting a road through the property and breaking up the parcel into small lots; creating a subdivision. Mr. Hesser stated they are asking for one additional house. Mr. Rudy questioned what stops them from clearing the lot and building multiple homes. Mr. Hesser stated if anything were to change in the future, they would have to follow the procedures and neighbors would be notified. He also confirmed that the petitioner is here for the approval of one house. Mr. Rudy questioned if the trees on the property line are allowed to be cut down. Mr. Hesser stated that is out of his jurisdiction.

Mr. Lang stated they are only putting one house on the lot. He went on to say that he has no control over what someone does in the future, but right now he would anticipate an area suitable in size for a home and septic is the amount of land that would be cleared. Mr. Lang stated he is the representative.

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 7 to 1 depth to width ratio Developmental Variance be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 90 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan submitted (dated 2/15/16) and as represented in the Developmental Variance application.

The motion also included the request for a 30 ft. lot width Developmental Variance to allow for the construction of residence (Ordinance requires 80 ft.) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 90 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan submitted (dated 2/15/16) and as represented in the Developmental Variance application.

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

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

19. 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.

Steven Williams, 56719 Mark Manor Dr, Goshen, came on to be heard. Mr. Williams stated he is looking to build a 24' x 40' out building. He went on to say they have four vehicles and two boats. Mr. Williams stated one of his neighbors has a lot of projects in his yard and they do not want their yard to look like that; they like to keep their property clean and take pride in the way their yard looks. He went on to say they have had items stolen before and would like the opportunity to place their items in a locked facility. Mr. Lyon questioned if he has ever thought of having Mark Manor vacated. Mr. Williams stated he has spoken with his neighbor to the north and they are talking about going to court regarding the matter.

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 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 approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 90 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan submitted (dated 3/14/16) and as represented in the Developmental Variance application.

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

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

20. The meeting was adjourned at 11:39 a.m.

Respectfully submitted,

Amanda Denlinger, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary