

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 17TH DAY OF NOVEMBER 2016 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

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

Roll Call.

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

2. A motion was made and seconded (*Miller/Lyon*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 20th day of October 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 *Jerry & Janice Collins* for a 600 sq. ft. Developmental Variance to allow for an accessory dwelling with 1600 sq. ft. net floor area (Ordinance allows 1,000 sq. ft.) on property located on the North side of CR 4, 2,500 ft. West of East County Line Road, common address of 10457 CR 4 in York Township, zoned R-2, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0515-2016*.

There were eight neighboring property owners notified of this request.

Nick Miller, Nick's Custom Built Homes, 70300 Shady Lane, White Pigeon, MI, came on representing this petition. Mr. Nick Miller stated they wish to add on to an existing partial residence to allow the owners to care for their aging parents. Mr. Roger Miller clarified the accessory dwelling would be built inside of an existing pole barn. Mr. Campanello questioned how many sq. ft. they plan on making the accessory dwelling. Mr. Nick Miller stated he is adding a 20'x65' section making it 1,360 sq. ft. total. Attorney Kolbus questioned the owners' intent after they no longer reside in the apartment. Mr. Nick Miller stated the parents will only live in the residence part of the year as they spend the rest of the year in Florida. Mr. Hesser questioned why the petitioners are not building a separate accessory dwelling since the next request is for a Developmental Variance to exceed the allowed personal storage sq. ft. Mr. Nick Miller responded the pole barn has a bathroom and septic system making it more cost effective to add on to the existing area. Mr. Hesser questioned if the building would comply with the Ordinance, if the residential area was only 1,000 sq. ft., and Mr. Godlewski stated it would not. Mr. Campanello clarified the Ordinance allows 1,200 sq. ft. if 200 sq. ft. is storage. Mr. Hesser stated he is concerned about going against the Commissioners' guidelines for accessory structures. Mrs. Weirick mentioned the site plan proposes an additional bath, and Mr. Nick

Miller stated they would like to add a handicap accessible bathroom. Mr. Campanello stated in the past similar requests have been approved with the added commitment that the residence be dismantled after the occupants have moved. He also clarified the existing bathroom would not have to be removed. Mr. Roger Miller stated he is inclined to stay with the staff's recommendation.

Jerry Collins, 20014 US 12, Edwardsburg, the home owner came on for this petition. Mr. Collins stated his family is trying to move back to Indiana in order to take care of his parents and in-laws. Mrs. Weirick questioned who will be living in the accessory dwelling, and Mr. Collins stated the dwelling would be for his wife and him. He continued saying they travel with their parents and will probably only live in the dwelling four months a year. Mrs. Weirick questioned if the petitioner is willing to dismantle the accessory dwelling after they no longer reside there. Mr. Campanello stated he believes dismantling the dwelling would only include taking out the plumbing. Mr. Godlewski clarified it would include anything classifying the building as residential.

Mr. Nick Miller stated when the original permit was pulled the bathroom and septic system were included. He stressed half of the residential area is existing and being used as a storage room with a bathroom. He continued saying the existing area includes a living room and kitchenette, and the new area will be a handicap bedroom and bathroom. Mr. Campanello questioned the 1600 sq. ft. listed on the application, and Mr. Nick Miller responded the total sq. ft. will only be 1300 sq. ft. rather than 1600 sq. ft. Mr. Roger Miller mentioned the next request is for an additional out-building.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Roger Miller stated he is inclined to deny the request because the petitioners will only reside there four months of the year. He believes the dwelling could be limited to the standard of 1,000 sq. ft., and the rest of the building remains storage. Mrs. Weirick questioned if the Ordinance gives a standard for guest houses, and it was found guest houses are under the same classification as dawdy houses. Mr. Miller mentioned other petitions requesting more sq. ft. than what is allowed for dawdy houses have been denied. Mrs. Weirick believes with the last similar petition, the township was worried about water issues, however, this property is on a well. Mr. Campanello questioned how many sq. ft. of the living area will be used as storage such as closets. Mr. Nick Miller came on and stated the master bedroom will have a large closet, and there will also be a storage closet for the water heater. Mrs. Weirick stated she is concerned with the representation of 1,600 sq. ft. on the site plan verses 1,300 sq. ft. mentioned during this hearing. She went on to suggest an added condition requiring an updated and clarified site plan. Mr. Nick Miller mentioned when he filed the petition he had not completed his quote process. Mr. Roger Miller mentioned the building already exists, but he is skeptical about approving an additional outbuilding. Mrs. Weirick mentioned she understands adding on to the existing bathroom and stressed this is not on a small piece of property. Mr. Miller mentioned the bathroom needs to be handicap accessible creating a need for a larger sq. ft. accessory dwelling. Mr. Lyon stated he agrees with Mr. Miller that the building is already on the property, but he also understands why staff would recommend denial. Mr. Miller suggested a commitment be added requiring the owners to dismantle the residential section of the building if the property is sold. Mrs. Weirick stressed dismantling would not include the existing bathroom. Mr.

Campanello questioned what area on the site plan represents the addition. Mr. Nick Miller stated the addition will be 20'x32', and the existing area is 720 sq. ft. Mrs. Weirick stressed the 1,000 sq. ft. rule applies to the total residential area not just the sq. ft. of the addition. Mr. Hesser mentioned the site plan submitted with the questionnaire is different than the site plan submitted during the hearing [Attached to file as Petitioner's Exhibit #1]. Mr. Nick Miller responded the dwelling will have two entrances reflected in the new site plan. Mr. Campanello questioned if the existing fixtures can be kept when it is dismantled. Mrs. Weirick asked if the kitchenette is already built, and Mr. Nick Miller responded it is existing along with the bathroom. Mrs. Weirick stressed the motion should exclude dismantling the existing kitchenette and bathroom. Mr. Miller stated he believes wording the motion as the residential portion must be dismantled will give the owners more flexibility. Mr. Nick Miller clarified the living area must be turned back into storage, not that the living section of the building will be torn down.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Suzanne Weirick that this request for a 600 sq. ft. Developmental Variance to allow for an accessory dwelling with 1600 sq. ft. net floor area (Ordinance allows 1,000 sq. ft.) be approved based on the findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare.
2. Approval of the request will not cause substantial adverse effect on the neighboring property.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required)

The following commitments were imposed:

1. Approved in accordance with the floor plan submitted at the public hearing on 11/17/16, and as represented in the Developmental Variance application.
2. The residential portion of the building must be dismantled when no longer providing a residence for the current owners.

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

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

No: Randy Hesser.

5. The application of *Jerry & Janice Collins* for a Developmental Variance to allow the total sq. ft. of accessory structures to exceed 110% of the total sq. ft. in the primary structure on

property located on the North side of CR 4, 2,500 ft. West of East County Line Road, common address of 10457 CR 4 in York Township, zoned R-2, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0562-2016*.

There were eight neighboring property owners notified of this request.

Carl Graber, Pacemaker Buildings 71786 CR 29, Syracuse, came on representing this petition. Mr. Graber stated he believes the Developmental Variance is no longer needed, because the first petition was approved causing the living sq. ft. verses personal storage sq. ft. to change. Mrs. Weirick stated this petition should be heard, due to the accessory dwelling previously approved being dismantled when the owners move. Mr. Hesser agreed stating once the accessory dwelling is dismantled this property would be noncompliant. Mr. Graber mentioned the parcel is sized as an agricultural parcel, however the property is zoned R-2 restricting it to 110% personal storage of the living area rather than 200%, which would be allowed in an A-1 or R-1 zone. Mr. Hesser questioned if any of the surrounding properties are zoned R-2, and the Board looked at the zoning of surrounding properties on the aerial. Mr. Graber stated the owners are taking down an older building and replacing it with a new, unheated, rough-storage building. He stressed the new building will match the existing buildings and be hidden by the woods. Mrs. Weirick questioned if the petitioner can add plumbing to the building in the future. Mr. Graber mentioned currently the owners are going to be using the buildings as cold storage without any plumbing or heating. Mr. Godlewski responded to Mrs. Weirick's question and stated issuance of a plumbing permit would depend on their reason for needing plumbing. He continued saying if the plumbing was requested for a bathroom then it would be allowed, but it would not be allowed if the use of the building would be changed. Jerry Collins, 20014 US 12, Edwardsburg, MI, came on in favor of this petition and stated this building will be used to store their lawn mower, 4-wheelers and other equipment that use gasoline. He stressed this building will strictly be used for storage.

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 Developmental Variance to allow the total sq. ft. of accessory structures to exceed 110 % of the total sq. ft. in the primary structure be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan submitted (dated 10/17/16) and as represented in the Developmental Variance application.

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

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

6. The application of *Dennis & Miriam Helmuth* for a 7 to 1 depth to width ratio Developmental Variance to allow for an existing residence and accessory buildings on property located on the West side of CR 35, 2,000 ft. South of CR 30, common address of 62337 CR 35 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0575-2016*.

There were seven neighboring property owners notified of this request.

Barry Pharis, Brads-Ko-Abonmarche, 1009 S. Ninth St., Goshen, was present representing the petitioners. He stated the staff recommendation for denial is due to the Variance being self-imposed. He continued saying the petitioners own about 59 acres, and a one acre tract was previously separated off for the petitioners' sister. He pointed out the petitioners live on what will be Lot 5, his parents live on Lot 3, and a rental unit is on Lot 2. He stated this situation arose because a farmer would like to buy the house on Lot 2 and 10 acres. He continued saying an Amish couple decided they would like to buy Lot 5, the lake, and 10 acres. Mr. Pharis stressed Mr. Helmuth's father's health has been deteriorating for the past few years, and they do not believe he will be able to keep running his chiropractic business. He continued saying in order to eliminate the 7 to 1 request they would need to expand the lot's road frontage from 100 ft. to 250 ft. causing it to go over the natural drain and break in the land. He stated the Amish buyers would like to construct a drive along the ditch for access to their home by horse and buggy. Mr. Pharis stressed expanding the frontage 150 ft. will affect Lot 3 which they wish to preserve for an Amish family to buy in the future. He also added the expansion will add five acres of land the buyer does not wish to purchase, and it will take five acres away from Lot 2 which the buyer does wish to purchase. He stressed the configuration of the lots leaves 17 acres in the middle, which is not a buildable lot and can only be purchased by the three connecting property owners. Mr. Hesser clarified this petition has to be approved by the Board as well as the Plan Commission. Mr. Pharis stated he believes a 25 ft. driveway along the drain will help the Drainage Board gain access to the drain. Mr. Lyon agreed the Drainage Board would historically like a gravel drive for access to the easement. Mr. Pharis agrees the 7 to 1 variance would not be harmful to the neighbors as stated in the staff report, but he does believe adding 150 ft. frontage will be injurious to the neighbors within the subdivision. Mr. Hesser stated it will be an inconvenience to the buyers, but it will not injure the land. Mr. Pharis stated he understands staff cannot take into consideration what the buyers want when making a decision on land use, and he does not believe this subdivision will cause any issues for the county in the future. Mr. Lyon confirmed the subdivision is going before the Plan Commission next month, but the petition will have to be withdrawn if this request is denied. Mrs. Weirick questioned why staff believes the drive would be injurious. Mr. Godlewski stated the gravel drive was not mentioned in the staff report, but he stated the arrangement of lots is not ideal. Mr. Lyon stressed the gravel drive will give the Drainage Board access to the ditch. Mrs. Weirick questioned if the ditch will be affected by the drive along with long term maintenance. Mr. Hesser questioned if the Plan Commission looks at drainage issues within subdivisions. Mr. Lyon stated the request will not go before the drainage board unless the easement is impeded. Mr. Pharis stated the drive will be on the 25 ft. of frontage not in the easement, but the owners will allow the Drainage Board to use the drive.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller stated his concern is this property is being split based on what people want today and not dealing with future land use. Mr. Campanello stated if someone would like to change the property in the future it would have to go before the Board for approval. Mr. Pharis stated once the plat is recorded any changes would have to come before the Plan Commission. Mr. Campanello stated during the Plan Meeting, the County Surveyor can voice his concerns about the petition including any issues with the drive. Mr. Hesser stated he believes the Board is only dealing with the 7 to 1 issue which was explained to his satisfaction. Mr. Miller stated he has no objections other than it is complicated, but they have satisfied the requirements for this request. Mrs. Weirick stressed she feels drainage is no longer an issue. Mr. Miller believes the drive will help with drainage maintenance. Mr. Campanello stated he feels the landowners will be happy today. Mr. Lyon questioned if the landowners are aware of the subdivision, and Mr. Pharis responded he has letters signed and notarized by the buyers. Mr. Hesser suggested a commitment be added stating the driveway not be built in the drainage easement.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that this request for a 7 to 1 depth to width ratio Developmental Variance to allow for an existing residence and accessory buildings be approved in accordance with the findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare.
2. Approval of the request will not cause substantial adverse effect on the neighboring property. This is an agricultural and residential area.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).

The following commitment was imposed:

1. Driveway must be located outside of the 75 ft. legal drainage easement.

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

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

7. The application of *Timothy & Brenda Mestach* for a 10 ft. Developmental Variance to allow for the construction of an accessory dwelling 65 ft. from the center line of the right-of-way (Ordinance requires 75 ft.) on property located on the South side of CR 46, 2,600 ft. West of CR 31, common address of 16550 CR 46 in Jackson Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0567-2016*.

There were four neighboring property owners notified of this request.

Joel Camino, 2903 E Saybrook Dr., Goshen, came on representing this petition and stated the owners would like to build an accessory dwelling at a 65 ft. setback rather than the required 75 ft. Mr. Camino continued saying the family is involved in 4-H and walk their animals on a path through the woods. He stressed if the accessory dwelling is built at the required 75 ft. setback, it would be in the middle of their walking path. Mr. Hesser stated the path is not visible on the aerial, and it is not shown on the site plan. Mr. Campanello questioned what it would take to move the walking path, and Mr. Camino responded the owners would need to clear several trees. He also stressed moving the house back to meet the required setback would reduce the area where a septic system could be placed.

Tim Mestach, 16553 CR 46 New Paris, was present for this petition. Mr. Mestach stated his family has been using the walking path for many years, and it has become special to them. He continued saying his grandchildren use the path to ride their bikes and walk their 4-H animals. He stressed moving the house 10 ft. back would eliminate the path. He stated it may seem trite, but it is important to his family that they keep this path.

Mr. Hesser questioned what the 6 ft. area on the front of the house represents and stated the site plan is not detailed. Mr. Camino responded the 6 ft. area is a covered porch and requested the front of the house be at 65 ft. not including the porch. It was found the site plan represents the porch at 65 ft., and the setback with the house starting at 65 ft. would actually be 59 ft. Mr. Camino questioned if a non-covered concrete pad would be factored into the setback. Mrs. Weirick stressed any overhang would have to meet the required setback. Attorney Kolbus clarified any covering has to meet the setback, but concrete pads do not. He also confirmed the Board cannot approve a 59 ft. setback due to the petition being advertised as 65 ft. It was found the site plan shows 65 ft. to the porch.

Kenneth Jones, 20077 Regina Rd., Tim and Brenda Mestach's son in law came on in favor of this petition. Mr. Jones stated the accessory dwelling will be for his parents, and he will live in the primary residence.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello questioned if the Ordinance requiring a 75 ft. setback is based on sight issues. Mr. Godlewski responded regardless of a straight or curvy road the setback remains 75 ft., and Mr. Lyon stated it is the building standard. Mr. Hesser stated he believes a revised site plan is needed which conforms to what is being approved. Mr. Miller stressed the first overhang of the dwelling must be 65 ft. from the center line of the right-of-way.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Denny Lyon that this request for a 10 ft. Developmental Variance to allow for the construction of an accessory dwelling 65 ft. from the center line of the right-of-way (Ordinance requires 75 ft.) be approved based on the findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals or general welfare. Sight distance would be minimally affected.

2. Approval of the request will not cause substantial adverse effect on the neighboring property. This is a residential and agricultural area, and accessory dwellings (limited to 1000 sq. ft.) are allowed by right.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property. This would cause the need to move an existing walking path.

The following conditions were imposed:

1. Approved in accordance with the site plan to be submitted for staff approval and as represented in the Developmental Variance application.
2. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).

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

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

No: Suzanne Weirick.

Mrs. Weirick, Mr. Miller, and Mr. Hesser agreed denial of this request would cause unnecessary hardship but believed that hardship would be due to the septic system placement not placement of the walking path.

8. The application of *Timothy & Brenda Mestach* for a Special Use for a mobile home as a temporary accessory dwelling while the primary residence is replaced on property located on the South side of CR 46, 2,600 ft. West of CR 31, common address of 16550 CR 46 in Jackson Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0568-2016*.

There were five neighboring property owners notified of this request.

Mr. Miller questioned if a time restriction would be imposed in case the house is never built. Mrs. Weirick responded a three year time limit is a condition.

Joel Camino, 2903 E. Saybrook Dr., Goshen, came on representing this petition and stated the petitioners have a single-wide manufactured home they would like to temporarily place on the property. He continued saying this mobile home will use the existing septic system for the current home, and it will be removed once the new home is built. He stated he has talked to Bill from the Environmental Health Department and will follow his guidelines for the septic. Mr. Camino stressed the mobile home will be removed once the primary residence is built. He also stated he owns the mobile home, wishes to sell it after this home is completed, and will not allow it to remain on the property. Mr. Miller questioned where the mobile home will be placed, and Mr. Camino responded it will be perpendicular to the existing home about 20 ft. to the rear.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Suzanne Weirick that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon

these, further moved that this request for a Special Use for a mobile home as a temporary accessory dwelling while the primary residence is replaced be approved with the following conditions imposed:

1. Approved for a period of three years with a one year review to verify compliance with the following:
 - a. The mobile home shall be adequately stabilized, skirted and have tie-downs installed.
 - b. The water supply and sewage disposal system shall be installed in accordance with County Health Department specifications.
 - c. Adequate provisions for storage shall be provided at all times to eliminate exterior storage of personal property, tools and vehicles, except licensed motor vehicles.
 - d. At all times, the premises shall be kept free of abandoned junk vehicles or parts thereof as described by Indiana State Law.
2. Approved in accordance with the site plan submitted (dated 10/17/16) and as represented in the Special Use application.
3. The Elkhart County Environmental Health Department must approve a wastewater plan prior to issuance of a permit.
4. The temporary mobile home must be removed within 45 days of Certificate of Occupancy of the primary residence.

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

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

9. The application of *John & Judy Schrock (Buyer) and Gordon & Edna Bauman (Seller)* for a Special Use for a salvage yard on property located on the South side of CR 50, 195 ft. East of SR 15, 346 ft. West of CR 23, common address of 19590 CR 50 in Jackson Township, zoned M-2, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0522-2016*.

There were 10 neighboring property owners notified of this request.

John Schrock, 69221 CR 21, New Paris, came on representing this petition and stated he runs a small repairable cars dealership with his daughter and son-in-law. He continued saying in order to maintain their dealer's license, they are required to hold a salvage permit. Mr. Schrock stressed their business is not for dismantling cars, but it is an all indoors sales lot. He continued saying the cars outside of the building are cars their customers are trying to sell. Mr. Hesser questioned what customers Mr. Schrock caters to, and Mr. Schrock responded they advertise cars repairable cars in magazines. Mr. Miller clarified the petitioners are asking to continue an existing business. Mr. Schrock stressed since his family has taken over, the building has been greatly improved, and they strive to keep it presentable. Mr. Hesser questioned how long this business has been being run at this location, and Mr. Schrock responded three years. He also added he owns the property to the South. Mr. Hesser clarified this business has been run for some time, and they need to correct the Special Use.

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 salvage yard be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 9/26/16) and as represented in the Special Use application.
2. All outside storage of vehicles is limited to the area shown on the site plan (dated 9/26/16) as "parking lot."

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

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

10. The application of **Andrew & Susie Martin** for an amendment to an existing Special Use and site plan for an agri-business for fabrication of trusses for construction of structures for crops and animal husbandry farming operations, to allow for the construction of additional structures on property located on the East side of CR 1, 1,800 ft. South of CR 30, common address of 62332 CR 1 in Olive Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0560-2016*.

There were 10 neighboring property owners notified of this request.

Loren Sloat, 102 Heritage Parkway, Nappanee, came on representing this petition. Mr. Hesser thanked Mr. Sloat for including his power point with the petition and requested he focus on what is new. Mr. Sloat stated this business has been in operation for 15 years, and their petition is to modify the site plan. He continued saying the petitioners would like to add a roof between two existing lumber storage facilities. He stated they also wish to cover a concrete area for lumber storage. Mr. Sloat mentioned Mr. Martin houses more lumber than many lumber yards and keeps the broken bundles separated from the unopened. He stressed Mr. Martin strives to keep his lumber covered and fresh. Mr. Hesser questioned what type of cover will be over the concrete, and Mr. Sloat showed a picture of an existing cover on the property. He continued stressing the business operations are not changing. It was found the commitments are remaining the same, except the renewal commitment is being removed. Mr. Campanello questioned the semi delivery commitment. Mr. Sloat stated he believes the commitment is okay as some days he may not have any deliveries and other days he has two or three.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser questioned if the business is still an agri-business, and Mr. Sloat responded yes. He continued saying Mr. Martin services the Amish and Old Order Mennonites in Indiana, Michigan, and Ohio.

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 an amendment to an existing Special Use and site plan for an agri-business in an A-1 district for fabrication of trusses for construction of structures for crops and animal husbandry farming operations, to allow for the construction of additional tructures 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 10/17/16) and as represented in the Special Use Amendment application.
2. Pick-up truck with trailer used for primary delivery of trusses. Semi-tractor with trailer used as needed for longer trusses, no more than one or two times per month.
3. No more than two deliveries or pick-ups per day.
4. Truss business will not be expanded without BZA approval.
5. Hours of operation are Monday through Friday from 7:00 a.m. through 6:00 p.m. with no Saturday or Sunday hours.
6. Construction of roof trusses shall be secondary to the use of the property as a residence and as farmland.
7. Agri-business manufacturing assembly operations will be carried on wholly within accessory building per site plan.
8. Agri-business will be operated by Andrew Martin as resident of the property, not more than two persons who do not occupy the residence will be employed.
9. No signs.
10. No retail sales.
11. Agri-business shall not produce noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.

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

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

11. The application of *William & Kristine Bradford* for a Use Variance for an existing mobile home and for a Developmental Variance to allow for said mobile home to be located on property with no road frontage (Ordinance requires 60 ft.) located on the North side of 4th St., 1,281 ft. West of Division St. (SR 15), common address of 18763 4th St. in Jackson Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0531-2016*.

There were 19 neighboring property owners notified of this request.

Mr. Hesser questioned if the same mobile home has been on the property since 1966. Mr. Godlewski responded as far as the staff is aware, it has not been replaced. Mr. Hesser also questioned if the mobile home could be replaced without the petitioner coming before the Board, and Mr. Miller responded the Board is approving a mobile home be placed on the property but not this specific mobile home.

William Bradford, 0640 E 660 S Wolcottville, came on representing this petition. Mr. Bradford stated he purchased the property a year and a half ago after it had been vacant for two years. He continued saying a trailer has been on the property for 50 years, but the current trailer was installed in 1978. He stressed the trailer is livable, but he appreciates the fact he could upgrade it in the future. Mr. Miller questioned if the trailer would have to be replaced with the same size home, and it was found the size could be changed. Mr. Hesser questioned if 4th Street ends before reaching the mobile home, and Mr. Godlewski responded the county maintained part of the road ends. Mrs. Weirick questioned if approval would require the county to maintain the street, and it was found it would not. Mr. Bradford stated he has heard of the county maintaining the road after approval, but he possesses the equipment needed for maintenance. Mr. Lyon questioned if the petitioner has a problem with acquiring the right-of-way, and Mr. Campanello stated it has already been acquired. Mr. Hesser questioned if the neighbor across the street has any issues with this petition, and Mr. Bradford responded he owns the property across the street.

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 an existing mobile home 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. Approved for a period of three years with a one year review to verify compliance with the following:
 - a. The mobile home must maintain development standards such as having appropriate tie downs and skirting, etc.
 - b. Adequate provisions for storage shall be provided at all times to eliminate exterior storage of personal property, tools and vehicles, except licensed motor vehicles.
 - c. At all times, the premises shall be kept free of abandoned junk vehicles or parts thereof as described by Indiana State Law.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 9/30/16) and as represented in the Use Variance application.

Further, the motion also included that a Developmental Variance to allow for said mobile home to be located on property with no road frontage (Ordinance requires 60 ft.) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).

2. Approved in accordance with the site plan submitted (dated 9/30/16) and as represented in the Developmental Variance application.

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

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

12. As a staff item, Mr. Godlewski presented the request for major/minor approval for a site plan change to an existing Special Use for a school for BACA (30380CR 6-151012-1). Mr. Godlewski stated the school is seeking approval to change the size of their sign on the site plan to allow them to use an existing sign. He continued saying the school was approved at the 11/19/15 Board of Zoning Appeals Meeting. This request is to allow for a 2'x8' double-sided non-illuminated sign to replace the 2'x5' double-sided sign originally approved. Staff recommends approval as a minor change. Mr. Hesser questioned if the sign pictured is the existing or proposed sign. Mrs. Gunden responded it is the proposed sign for the new location which is currently placed at the school's old location. Mr. Hesser questioned the location of the new school. It was found the sign is currently on CR 7, and it will be moved to 30380 CR 6. Mr. Godlewski stated the school is moving. Mr. Hesser questioned how this request can be approved as a minor change when the school is changing locations. Mrs. Gunden clarified the school's move was approved on 11/19/15; this request is for a sign change to that site plan. Mr. Hesser stated instead of putting up a new sign, the school is asking to use their existing 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 approve the request as a minor change.

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

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

13. As a staff item, Mr. Godlewski presented the proposed rule change discussed during the 10/20/16 Board of Zoning Appeals Meeting. Mr. Godlewski stated the change would extend the 90 day Improvement Location Permit deadline to 180 days. He stressed the Building Department hears routinely that the time frame is not long enough to complete the requirements. Mr. Hesser questioned if any of the Board members have a problem with this change. Mrs. Weirick believed the Board agreed on this issue last meeting. Mr. Miller stated the change was not on the agenda for public knowledge at the previous meeting.

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 approve the request for a Rules of Procedure change to extend the Improvement Location Deadline from 90 days to 180 days.

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

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

14. As a staff item, Mr. Godlewski presented the request for approval of an updated site plan as required with approval for a Special Use for Jose Romeo Pineda (Buyer) and Willie's Construction Inc. (Seller) (SUP-0124-2016). Mr. Godlewski stated a Special Use for the keeping

of chickens and a road side stand was approved on 5/19/16 provided a new site plan come before the Board for approval. Mr. Hesser questioned what needed to be changed on the site plan. Mr. Miller believed the site plan was drawn on a piece of paper and was not accurate. Mrs. Weirick questioned why this was not approved by staff, and Attorney Kolbus responded a number of neighbors were present in remonstrance. Mr. Hesser stated the condition was to present a new site plan at a public meeting, and he questioned if their purpose was for the neighbors to be re-notified. Mr. Godlewski stated neighbors are notified after the Board's decisions for staff items, but they have the right to appeal a decision. Attorney Kolbus clarified the petition will be heard as a staff item unless it is specified as a public hearing. Hesser stated he does not believe most people would understand the difference between public meeting and public hearing. Mr. Campanello stated he remembered a few farmers who came in to remonstrate. Attorney Kolbus read the minutes from the 5/19/16 Board of Zoning Appeals Meeting and mentioned the site plan was to include parking, sign size/location, and hours of operation. Mr. Godlewski suggested the request be tabled, and the additional information be provided at the next meeting. Mr. Campanello questioned if the Board can approve the site plan with the commitment that staff approve the additional information. Mr. Hesser asked if the neighbors should be notified, and Mr. Campanello suggested the neighbors not be notified. Mrs. Weirick suggested, if the neighbors are notified, they should be asked to remain calm during the public hearing. Mr. Hesser stated the submitted materials do not meet the requirements, and he suggested this petition be tabled until next month to give the petitioner an opportunity to provide the information requested. Mrs. Weirick questioned if Mr. Pineda should come back for a public hearing. Mr. Hesser responded he is okay with it being brought as a staff item next month, then the Board can decide if the materials are sufficient or if they need another public hearing.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for site plan approval be tabled until the December 15, 2016, Elkhart County Advisory Board of Zoning Appeals meeting, for additional information on signage and hours of operation to be provided to meet the requirement requested with approval at the May 9, 2016 meeting.

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

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

15. The meeting was adjourned at 10:30 A.M.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary