

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 16TH DAY OF MARCH 2017 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: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

2. A motion was made and seconded (*Lyon/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 16 day of February 2017 be approved as read. The motion was carried with a unanimous roll call vote.

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

4. The application of **Howe Jeffery S. & Michelle R. Co-Trustee ½ Etal ½** for a 7 to 1 depth to width ratio Developmental Variance to allow for the construction of a residence on proposed lots A, B, & C, for a 50 ft. lot width Developmental Variance to allow for the construction of a residence on proposed lot C (Ordinance requires 100 ft.), and for a 60 ft. lot width Developmental Variance to allow for the construction of a residence on proposed lot A (Ordinance requires 100 ft.) located on the West side of CR 35, 3,099 ft. North of CR 14, common address of 55385 CR 35 in Middlebury Township, zoned A-1, came on to be heard.

There were six neighboring property owners notified of this request.

Mr. Godlewski presented a letter from the petitioner requesting this petition be withdrawn [Attached to file as Staff Exhibit #1]. Mr. Hesser asked if anyone was present for this petition, and he informed the remonstrators that this petition has been withdrawn. Mr. Miller questioned if this will be a permanent withdrawal, or if the petitioners are taking time to regroup. Mr. Godlewski informed the Board the petitioners have a waiting period of one year before they can reapply without a significant change to the request. A remonstrator present stressed a declaration of restrictive covenants is in place stating the property cannot be subdivided until 2018. Mr. Hesser responded that would have been addressed if the petition had not been withdrawn, but if the petitioners reapply the neighbors will be re-notified and given a chance to speak.

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

Motion: Action: Withdrawn **Moved by** Roger Miller, **Seconded by** Joe Atha that this request for a 7 to 1 depth to width ratio Developmental Variance to allow for the construction of a residence on proposed lots A, B, & C, for a 50 ft. lot width Developmental Variance to allow for the construction of a residence on proposed lot C (Ordinance requires 100 ft.), and for a 60 ft. lot width Developmental Variance to allow for the construction of a residence on proposed lot A (Ordinance requires 100 ft.) be withdrawn at the request of the petitioner.

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

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

5. The application of *Ivan L. & Betty J. Hershberger* for a Special Use for a home workshop/business for small engine and garden equipment repair on property located on the South side of CR 30, 2,596 ft. West of CR 37, common address of 13492 CR 30 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0034-2017*.

There were six neighboring property owners notified of this request.

Paul Hostetler, 64302 CR 35, Goshen, was present representing the Hershbergers who were unable to attend. Mr. Hostetler went on to read a letter written by the petitioner [*Attached to file as Petitioner Exhibit #1*]. He stressed this petition is to move an existing business from its current location at 62148 CR 37, which will be operated the same as it has been for the past 42 years. Mr. Hostetler continued saying the petitioners do not live on the property, but they have intentions to move in on March 25, 2017. Mr. Hesser questioned the occasional semi delivery mentioned in the petition and added he does not see enough room for a semi turn-around on the property. Mr. Hostetler responded Mr. Hershberger has plans to widen the driveway and add an area for parking behind the building. He continued saying most semis that come to this property unload off of CR 30. Mr. Campanello asked if it would be possible to add a semi turn-around and questioned the terrain of the property. He responded it is flat, and Mr. Campanello stated a turn-around could be added. He went on to stress the Board does not want semis parked or unloading off of the road. Mr. Hostetler stated a semi turn-around could be added in a large area towards the back of the property. Mr. Lyon stressed the semis should not be backing off of or parking on the road. Mr. Godlewski suggested a commitment be added stating backing or parking on CR 30 is prohibited. Mr. Hesser asked which road stops at the CR 30 and CR 37 intersection, and Mr. Hostetler responded CR 30 stops. Attorney Kolbus suggested a revised site plan be submitted for staff approval. Mr. Miller asked if this petition can be approved before the revised site plan has been submitted. Mr. Hesser responded yes, as it will be part of the commitment.

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** Denny Lyon, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for small engine and garden equipment repair 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. A revised site plan must be submitted for approval by staff showing the semi turn-around.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. Backing in or backing out of vehicles from/onto CR 30 is prohibited.

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

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

6. The application of *Sujely Borjas* for an amendment for an existing Special Use for an agricultural use for the keeping of (20) animals to change the site plan, property owner's name, and acreage located on the West side of CR 11, 766 ft. South of State Line Rd., common address of 50739 CR 11 in Osolo Township, zoned R-2, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0089-2017*.

There were 28 neighboring property owners notified of this request.

Mr. Hesser asked if goats are considered large animals. Mr. Godlewski responded he believes animals could be classified as small, medium, or large. Mr. Hesser suggested goats and sheep would fall into the medium category. Mr. Atha questioned if this petition is for goats or cattle. Sujely Borjas, 50739 CR 11, responded the petition is for horses. Mr. Miller asked if the animals are currently on the property, and Mrs. Borjas responded she has had horses there for nine years. She continued saying she was the original owner, however her name was not on the deed when the Special Use was approved. Mr. Hesser questioned the number of horses on the property, and she responded seven. Mr. Lyon asked if the petitioners are okay with the limit of 20 animals, and she responded yes. Mr. Hesser clarified this petition would not be needed if the property was zoned agricultural. Mr. Godlewski mentioned this property has previously had some issues with animals, but no remonstrators are present. Mrs. Borjas stated she asked, if it would be easier to rezone this property, but she was told an amendment to an existing Special Use would be the better option. Mr. Hesser agreed with that recommendation. Mr. Campanello mentioned a previous petition for horse racing on this property, which was denied. Mrs. Borjas responded they trained race horses and were hoping to have spectators on their property. However, she stated at that time it was not planned properly, and they chose to take a different route with their business.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus explained large animal veterinarians consider their practice to include horses, sheep, goats, and pigs. Mr. Hesser clarified the petitioner does not have any goats, and Commitment #2 is a restriction from a previous commitment. Mrs. Borjas asked if the number of animals allowed per acre is restricted, and Mr. Hesser responded yes. He continued saying if this property was zoned agricultural it would not have a restriction, but due to the residential zone the number of animals allowed is limited. Mr. Hesser stated rather than specifying the type of animals allowed Staff is now restricting it to a certain number of large animals. Mrs. Borjas asked how the restriction of 20 animals came about, and what would be required to have more animals in the future. Mr. Hesser stated the Special Use would need to be amended, and Mr. Campanello added the property could also be rezoned to agricultural. Mr. Miller asked, if approval remains in effect until the petition changes. Mr. Campanello clarified, if they chose to have 21 animals, this petition would need to be amended.

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

Motion: Action: Approve, **Moved by** Denny Lyon, **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 an amendment for an existing Special Use for an agricultural use for the keeping of (20) animals to change the site plan, property owner's name, and acreage be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 2/10/17) and as represented in the Special Use application.
2. Limited to twenty (20) total large animals.

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

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

7. The application of *Power Line Amish School (Buyer), Kyle E. & Dianna R. Schlabach (Sellers), & Lehman Glen D. & Rosa Ellen as Trustee of the Lehman Tr Revoc Tr Agreement (Seller)* for a Special Use for a school in on property located on the South side of Cr 32, 660 ft. East of CR 43, in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0094-2017*.

There were six neighboring property owners notified of this request.

Scott Zeigler, Hand to the Plow Surveying, 5678 W 350 S, Albion, was present representing the petitioners. Mr. Zeigler stated the deeds have not been transferred, but the pasture will be transferred to Lehman, who will then transfer the entire property to the school. He stressed this is a predominately Amish, agricultural area. He added the soil borings, septic system design, and site plan have been completed, and plans have been submitted for state approval. He stated he believes everything will fit well on this property. He added although this road is heavily traveled, the property will have plenty of site distance, as the drive will be on the crest of a hill. Mr. Zeigler stressed this site meets all of the requirements and will benefit the community.

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 school 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. An Administrative Subdivision must be completed.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 2/13/17) and as represented in the Special Use application.

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

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

8. The application of *Benton Free Baptist Church, Inc. (Land Contract Holder) & David & Brittany Abbs (Land Contract Purchasers)* for a Special Use to allow for an agricultural use (keeping of animals) on property located on the North side of Jackson St., 300 ft. West of US 33, 500 ft. North of CR 44, in Benton Township, zoned M-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0090-2017*.

There were 23 neighboring property owners notified of this request.

Mr. Hesser questioned the acreage of this property. Mr. Godlewski stated it is four different lots with a right-of-way which could be vacated. Attorney Kolbus clarified the owners have petitioned to vacate the right-of-way. Mr. Godlewski stated he believes it is around $\frac{3}{4}$ of an acre, but the petitioner can answer for sure.

David Abbs, 67937 Mission St., Goshen, was present representing this petition. Mr. Abbs stated his family would like to raise pigs for 4-H on this property. He continued saying a petition has been submitted to vacate the right-of-way, which is set to be heard before the Plan Commission in April. He added the area the animals will be kept is set back in the woods and out of the sun. Mr. Miller clarified the subject property is zoned M-1. Mr. Atha asked if the entire property would be fenced in, and Mr. Abbs responded it will not. He went on to ask if this property will be rezoned when the right-of-way is vacated. Mr. Lyon stated the property being vacated will be split between the adjoining property, and Mr. Campanello added it would be zoned M-1 after the vacation has been completed. Mr. Hesser explained the entire property will need to go before the Plan Commission to be rezoned. Mr. Miller asked if Mr. Abbs has an issue with the limit of six animals, and he responded he does not. Mr. Hesser questioned the acreage, and Mr. Abbs stated it is .7 acres. Attorney Kolbus mentioned .7 acres only includes two of the four lots. Mr. Lyon clarified the property is actually four lots plus possibly a vacated right-of-way. Attorney Kolbus added the property will probably be a total of 1.5 acres. Mr. Abbs stressed the paperwork was filled out prior to filing for the vacation of the alley. Mr. Hesser stated he believes less than an acre is a small area for large animals, and he stressed he would not want six cattle on this small of a lot. Mr. Atha questioned how large of an area the hogs will be kept in, and Mr. Miller responded the site plan shows a confined area. Mr. Abbs stated they will be confined, but he would like to put another fence around a larger area for them. Mr. Atha requested Mr. Abbs outline the area for the proposed fence on the aerial. Mr. Hesser asked, if they have plans to switch, from pigs to sheep or goats down the road, and Mr. Abbs responded not currently. He added only one of their children is in 4-H for livestock as their other children are too young. Mr. Hesser stressed he is not comfortable approving this petition for large animals, and Attorney Kolbus suggested changing the commitment to approval for hogs. Mr. Hesser mentioned the petitioner can come before the Board for a Special Use Amendment, if he chooses to have different animals. Mr. Atha agreed the property is not large enough for six

cattle, and he questioned if the petitioners' children will walk the pigs. Mr. Abbs responded the purpose of the second fence is to keep the pigs confined while walking them. Mr. Miller suggested the commitment say limited to six hogs. Mr. Atha asked the petitioners' plans for the manure, and he responded it can be taken down to his wife's aunt's field. Mr. Atha stressed he does not want it kept on top of gravel.

Ed Jones, 15538 Jackson St., Goshen, was present in remonstrance and pointed out his property on the aerial. He also pointed out a rental home on the aerial and expressed he is concerned that the wind will carry the pig smell in that direction. Mr. Campanello asked if he owns the rental home, and he responded no. He went on to say the owner is out of town and unable to make it to this meeting. Mr. Jones stated he is worried because the property does not have electricity or plumbing and may attract rodents. He stressed the animals are currently kept at their aunt's farm East of Benton. He continued saying the subject property is within the town of Benton, and he does not believe hogs should be allowed in this area. Mr. Jones stated he sold this property to the church on land contract, which stated when the church ceased to be a church, it was to be sold back to him. He added it is recorded and remains a binding contract. He went on to stress he is not opposed to 4-H. He also added he has questions about the smell and disposal of manure. He explained as far as he knows the petitioner does not have a tractor or trailer to haul the animals. He continued saying he believes a slab is needed to help keep the manure cleaned up.

Lindale Johns, 15530 Jackson St., was present in remonstrance and pointed out his property on the aerial. He stated he has lived at this property for 25 to 27 years, and his children all participated in 4-H. He stressed he supports 4-H, but he is against the petition as his daughter has cystic fibrosis. He continued explaining it is a hereditary, life-threatening disease. He stressed his daughter cannot be subjected to many air quality issues, such as the smells pigs in the area could produce. He continued saying his daughter has been hospitalized twice this year, causing even more concern for her health. Mr. Johns explained he moved to this area 25 years ago, because it was a nice location. Mr. Hesser asked about the manufacturing building to the North of the subject property, and Mr. Johns responded it is an RV plant. Mr. Hesser clarified the subject property has never been used for manufacturing despite its M-1 zoning. Mr. Hesser then questioned an area to the West.

Mr. Jones responded saying it was a fertilizer plant. He continued explaining fertilizer would be brought in by train and dumped into the different bins for storage. Mr. Hesser clarified it was not a rendering plant.

Mr. Abbs came back on and stressed electric is not required to take care of hogs, and his sons will bucket water to them until a hydrant is installed. He continued saying he owns a trailer which is kept at his wife's aunt's farmland will be used to haul the manure. Mr. Miller asked if he owns the property, and Mr. Abbs responded he is purchasing it through a land contract with the church. Mr. Hesser asked why he is requesting six hogs. Mr. Abbs stated he was told to consider any future plans when filling out the paperwork. He explained six pigs were requested, because he has three children who will be able to show two pigs each for 4-H.

The public hearing was closed at this time.

Mr. Miller stated he understands the neighbors' concerns, but the Board has approved similar requests in an M-1 zone. Mr. Lyon asked if this petition can be approved for a period of one or two years with renewal before the Board. Attorney Kolbus stated that is an option, or the

Board could reduce the number of animals allowed on the property. Mr. Campanello mentioned that something worse for the community could go in on this parcel. Mr. Lyon stressed that is more of a possibility once the right-of-way is vacated. Mr. Miller asked how long of a time limit should be imposed, and Mr. Lyon suggested one year. Mr. Miller also asked what adding a time restraint would entail. Mr. Godlewski responded once the time period has ended the petitioners would need to come back before the Board for a renewal. Mr. Campanello stated he will vote against this petition, because he does not believe this is the right location for hogs. He stressed it is in the middle of a small town with several houses surrounding it. Mr. Miller responded he would agree with denial of this petition, if the pigs were not kept in a confined area. Mr. Atha questioned if a commitment should be added to ensure the pigs are kept in a confined area. Mr. Hesser responded the petitioner is held to what is represented on the site plan, and Mr. Godlewski added an amendment would be needed to change the site plan.

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

Motion: Action: Approve, **Moved 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 to allow for an agricultural use (keeping of animals) be approved with Condition #1 limited to 6 hogs at any one time, Condition #2 Approved for a period of two years with renewal before the Elkhart County Advisory Board of Zoning Appeals. **None seconded.** Motion dies for lack of a second.

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use to allow for an agricultural use (keeping of animals) be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 2/10/17) and as represented in the Special Use application.
2. Limited to two (2) hogs at any one time
3. Approved for a period of one year with renewal before the Elkhart County Advisory Board of Zoning Appeals.

Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Roger Miller, Denny Lyon, Randy Hesser.

No: Joe Atha, Tony Campanello.

9. The application of *Daniel H. & Ruth E. Schmucker* for a Special Use for a home workshop/business for a water filtration business on property located on the East side of CR 3 1,900 ft. South of CR 42, common address of 67352 CR 3 in Locke 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-0080-2017.

There were six neighboring property owners notified of this request.

Daniel Schmucker, 67352 CR 3, Wakarusa, came on representing this petition and stated he would like to start a water softening business. He explained he will be taking over an existing business from his father-in-law, and he would like to move it to his home. He continued saying he will not have outside storage, and he does not believe the neighbors will notice the business. Mr. Campanello asked if he intends to warehouse and deliver salt, and Mr. Schmucker responded he will not be handling salt. He continued saying he plans to manufacture water softeners in his home for installation. He explained customers can come to his home to buy items needed to maintain the softeners he has installed. He added he will charge retail prices, but he does not intend this to be a retail store. Mr. Miller clarified this is a supply business. Mr. Campanello asked if semis will deliver to this property. Mr. Schmucker responded typically a trailer is used, but he has considered using a semi. He added a semi would come about once a year and unload off of the street. Mr. Campanello questioned if a semi turn-around could be added in order to keep semis off of the road. Mr. Schmucker stated his property is only an acre and a half with a standard width drive. He stressed he does not know how a turn-around could fit on his property. Mr. Campanello stated he will need to use flat bed trucks for deliveries instead of semis, if a turn-around is not installed. Mr. Schmucker mentioned he spoke with the chemical company, and he was told a short truck would be sent for deliveries rather than a semi. Mr. Miller stressed he does not want trucks parked on the road. Mr. Hesser noted the property is about 2,500 ft. from CR 42, and Mr. Schmucker believes it is about 1,900 ft. Mr. Lyon questioned the use of the property to the West. Mr. Schmucker stated that is yard, and it would not be cost effective to put a semi turn-around in that area.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser noted the site plan shows no outside storage.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a water filtration business be approved with the following condition imposed:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 2/9/17) and as represented in the Special Use application.
2. Backing in or backing out of vehicles from/onto CR 3 is prohibited; and no unloading off of CR 3.

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

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

10. The application of *Paul L. & Violet J. Shaum* for a Special Use for an agri-business for commercial repair of agricultural production equipment on property located on the West side of

CR 13, 1,325 ft. North of CR 46, common address of 68729 CR 13 in Union 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-0093-2017*.

There were six neighboring property owners notified of this request.

Mr. Miller questioned the location of the outside storage area on the site plan, and Mr. Hesser explained it is the area with slanted lines.

Charlie Zercher, Kindig & Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioners. Mr. Zercher stated Mr. Shaum would like to operate an agri-business for the repair of agricultural production equipment. He continued saying he intends to take over the business where he is currently employed as his employer is looking to retire. He explained the commercial repair of agricultural production equipment falls under the classification of an agri-business, which is allowed in an A-1 zone. He added an agri-business would not necessarily have a restriction on outdoor storage, but they will limit it to the area outlined on the site plan. He also mentioned evergreens will be planted along the North side of the barn as a buffer. Mr. Hesser asked if the need for outside storage was the reasoning behind classifying this petition as an agri-business rather than a home workshop. Mr. Zercher responded yes, and this petition falls within the agri-business category. He went on to explain outdoor storage will only be the equipment which Mr. Shaum will repair, rather than parts. Mr. Miller clarified it will not turn into a salvage yard. Mr. Zercher stressed it will be whole pieces of equipment, as the accessory building is not large enough for the large equipment. He went on to address deliveries to the property and stated the application points out UPS and FedEx will deliver to this location two to three times a week. He added freight trucks may also make deliveries two or three times a year, which could include semis. He went on to explain Mr. Shaum plans to demolish an existing accessory structure and bin, which will make room for a semi turn-around on the property. Mr. Miller asked how farm equipment will be delivered to the property. Mr. Zercher responded he believes it will be pulled-in, driven, or brought in on a flat bed truck. Mr. Miller believes a turn-around is needed more for the equipment coming in rather than deliveries. Mr. Zercher stressed the property has enough room to pull in and turn around, without semis parked or backing on or off of the road. Mr. Campanello asked if the petitioner would be opposed to submitting a site plan with the proposed turn-around. Mr. Zercher responded he is not sure when the turn-around will be constructed due to the petitioners' finances. Mr. Campanello requested the petitioner submit a site plan showing the future turn-around. Mr. Miller suggested making submission of a new site plan a condition. Mr. Atha questioned if a commitment should be added stipulating no spare parts are allowed in the outside storage area. Mr. Hesser stressed that was represented by the petitioner during the meeting, and he suggested, as represented during the hearing, be added to Commitment #1.

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** Joe Atha, **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 agri-business for commercial repair of agricultural production equipment 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.
2. A revised site plan must be submitted for approval by staff showing the semi turn-around.

The following conditions were imposed:

1. Approved in accordance with the revised site plan to be submitted for staff approval, the petitioner's testimony, and as represented in the Special Use application.
2. All outside storage is limited to the "outside storage" area indicated on the site plan.

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

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

11. The application of *Levi C. & Anna Viola Troyer (Land Contract Holder) & Calvin A. & Mary K. Miller (Land Contract Purchaser)* for a Special Use for a home workshop/business for a harness & farrier shop, for a 4 ft. Developmental Variance to allow for the construction of a shop addition 71 ft. from the center line of the right-of-way (Ordinance requires 75 ft.), and for a 8 sq. ft. Developmental Variance to allow for a 12 sq. ft. sign (Ordinance allows 4 sq. ft.) on property located on the West side of CR 116, 900 ft. South of CR 16, common address of 56687 CR 116 in Middlebury 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-0072-2017*.

There were 38 neighboring property owners notified of this request.

Mr. Miller asked if the petitioner is limited to a one-sided sign. Mr. Godlewski explained that is not the case, but by making the sign two-sided it exceeds the square footage allowed for signs associated with a Home Workshop Special Use.

Calvin Miller, 56687 CR 116, was present representing this petition as the land contract purchaser. Mr. Calvin Miller stated he would like to put up a new building for the harness shop and furrier service. Mr. Campanello asked if semis deliver to the property, and Mr. Calvin Miller responded straight trucks will be the largest trucks delivering to this property. Mr. Campanello stressed the truck should be unloaded on the property not the road.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello suggested all of the requests be acted upon as one motion.

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

Motion: Action: Approve, **Moved by** Joe Atha, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a harness & farrier shop 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 2/7/17) and as represented in the Special Use application.

The motion also included that a 4 ft. Developmental Variance to allow for the construction of a shop addition 71 ft. from the center line of the right-of-way (Ordinance requires 75 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 2/7/17) and as represented in the Developmental Variance application.

Further, the motion also included that an 8 sq. ft. Developmental Variance to allow for a 12 sq. ft. sign (Ordinance allows 4 sq. ft.) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan submitted (dated 2/7/17) and as represented in the Developmental Variance application.

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

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

12. The application of *Ziegler Carroll O. Trustee of the Carroll O. Ziegler Trust* for a Use Variance to allow for the construction of an accessory structure without a residence, for a 20 ft. lot width Developmental Variance to allow for the construction of an accessory structure (Ordinance requires 100 ft.), and for a 3,536 sq. ft. lot area Developmental Variance to allow for the construction of said accessory structure (Ordinance requires 15,000 sq. ft.) on property located on the West side of Teall Rd., 1,914 ft. North of CR 2, common address of 50648 Teall Rd. in Washington Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0064-2017*.

There were 10 neighboring property owners notified of this request.

David Ziegler, the son of Carroll Ziegler, 50696 Teall Rd., was present representing this request. Mr. Hesser questioned the existing buildings on the property. Mr. Ziegler clarified the property currently has one building along with three hoop sheds, which will be taken down. Mr. Hesser clarified the property will only have two buildings if this petition is approved. Mr. Miller asked if the building will be used for personal storage, and Mr. Ziegler responded it will be used to store their boats. He stressed he would like to use this building for his equipment which is currently outside. Mr. Lyon questioned why the new building will not be attached to the existing building. Mr. Ziegler stated the existing building is used for a workshop and personal storage, however, it does not provide enough storage.

Mary Ziegler, 50696 Teall Rd., the wife of David, came on for this petition. Mrs. Ziegler stressed in order to fit their pontoon into the existing building it has to be collapsed and their ski boat has to be lowered. She continued saying the new building will allow their boats to be backed in without any adjustments.

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** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of an accessory structure without a residence be 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 2/3/17) and as represented in the Use Variance application.

Further, the motion also included that a 20 ft. lot width Developmental Variance to allow for the construction of an accessory structure (Ordinance requires 100 ft.) and for a 3,536 sq. ft. lot area Developmental Variance to allow for the construction of said accessory structure (Ordinance requires 15,000 sq. ft.) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the building permit (where required).
2. Approved in accordance with the site plan submitted (dated 2/3/17) and as represented in the Developmental Variance application.

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

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

13. The application of *Travis S. & Kristina L. Miller* for a Special Use for a home workshop/business for an automotive paint shop and for a 20 sq. ft. Developmental Variance to allow for a 24 sq. ft. sign (Ordinance allows 4 sq. ft.) on property located on the West side of CR 8, 200 ft. South of CR 12, common address of 55277 CR 8 in Middlebury Township, zoned A-1, came on to be heard.

No petitioner was present.

Mr. Godlewski stated the Building Department is working on an active complaint for this property, and Mr. Miller is failing to be compliant. He continued stressing the petitioner has failed to appear for two hearings. Attorney Kolbus added the Board sent a letter to the petitioner after the last hearing stating, if the he failed to appear at the March 16, 2017 meeting, his petition would be acted upon without him present. Mr. Hesser stated the record should show the petitioner was not present. Attorney Kolbus submitted a copy of the letter sent to the petitioner

after he failed to appear at the February 16, 2017 Advisory Board of Zoning Appeals Meeting
[Attached to file as Staff Exhibit #1].

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: Denied, Moved by Randy Hesser, **Seconded by** Denny Lyon that this request for a Special Use for a home workshop/business for an automotive paint shop and for a 20 sq. ft. Developmental Variance to allow for a 24 sq. ft. sign (Ordinance allows 4 sq. ft.) be denied.

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

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

Mr. Miller asked how this issue will be addressed as he has received complaints about this property. Mr. Godlewski responded it will be followed up by Code Enforcement.

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

There were four neighboring property owners re-notified of this request.

Mr. Hesser stated the Board received a request from the petitioners for this request to be withdrawn.

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: Withdrawn Moved by Randy Hesser, **Seconded by** Denny Lyon that this request for a Special Use to allow for animal racing and/or training and for a Developmental Variance to allow for signs (including wall signs) larger than 8 sq. ft. be withdrawn at the request of the petitioner.

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

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

16. The meeting was adjourned at 10:17 A.M.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary