

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 16TH DAY OF OCTOBER 2008 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 Vice Chairperson, Robert Homan, with the following board members present: Tom Lantz, and Doug Miller. Staff members present were: Robert Watkins, Plan Director; Larry Harrell, Zoning Administrator; Dan Piehl, Planner; Ann Prough, Code Enforcement Officer; Kathy Wilson, Officer Administrator and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Lantz/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18th day of September be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Lantz/Miller*) that the legal advertisements, having been published on the 4th day of October 2008 in the Goshen News and on the 7th day of October 2008 in The Elkhart Truth, be approved as read. A roll call vote was taken, and with a unanimous vote, the motion was carried.

4. A motion was made and seconded (*Miller/Lantz*) that the Board accepts the Zoning Ordinance and Subdivision Control Ordinance as evidence into the record and the motion was carried with a unanimous roll call vote.

5. A motion was made and seconded (*Lantz/Miller*) that the Board accepts the Staff Reports as evidence into the record. A roll call vote was taken and the motion was carried with a unanimous vote.

** (Mr. Hesser arrived at this time.)*

6. There were no postponements of business items.

7. The application of **Larry & Freda Hochstetler** for a 3 to 1 depth to width ratio Variance to allow for the construction of a residence on property located on the South side of CR 52, 925 ft. East of CR 19 in Jackson Township, zoned A-1, came on to be heard.

One photo of the property was submitted to the Board by the staff [*attached to file as Staff Exhibit #1*].

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082980*.

There were 7 neighboring property owners notified of this request.

Barry Pharis, Brads-Ko Engineering & Surveying, 1009 S. 9th Street, Goshen, was present representing the petitioners. Mr. Pharis explained that Mr. and Mrs. Hochstetler re-located to Elkhart County and bought the proposed 12 acres. Mr. Hochstetler's sister lives in the house towards the front of the property. Two months ago, the petitioners came before the Board seeking an Appeal to build a second residence on the property. His sister has lived in this house her entire life and has indicated that she wants to stay there until she passes away.

The Board denied the Appeal request and suggested that the Hochstetler's pursue a minor subdivision. At the Plan Commission meeting this month, they received Primary Approval for the minor subdivision. Today, they are requesting the three to one depth to width ratio Variance for the second lot to allow them to proceed with Secondary Approval. He asked that the Board agree with the favorable staff recommendation.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a 3 to 1 depth to width ratio Variance to allow for the construction of a residence be approved provided the pending minor subdivision is granted by the Elkhart County Advisory Plan Commission and recorded. A roll call vote was taken and the motion was unanimously carried.

8. The application of **Brock Weaver** for a 7 ft. Variance to allow for the construction of an accessory structure 3 ft. from the West side property line (Ordinance requires 10 ft.) on property located on the North side of Jackson Blvd., 500 ft. West of Sparr Avenue, common address of 3950 E. Jackson Blvd. in Concord Township, zoned R-1, came on to be heard.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082974*.

There were 5 neighboring property owners notified of this request.

Gene Miller, GM Homes, P.O. Box 2298, Elkhart, was present representing the petitioner, Brock Weaver. Mr. Gene Miller explained that the client wants to have a three car garage at this location where they can put their vehicles and have some storage/living quarters above it. The lot is so narrow that they have to crowd the property line to allow them to pull their vehicles into the garage properly. He explained that with the septic system being in it's current location, there is only one place to put the garage.

Mr. Homan said he is concerned about the living quarters being in the garage. Mr. Gene Miller clarified that it will only have a bathroom and one large room, which will be used as a fitness area/game room. There won't be a kitchen or any bedrooms, so the petitioners don't have the intention of anyone living in that part.

Mr. Homan asked if they have tried getting approval for a septic system. Mr. Gene Miller said the bathroom can tie into the existing septic system.

Mr. Harrell indicated the staff wasn't aware of the bathroom. He is very familiar with the property and it's very restricted as far as any septic system. He believes that some of the field system is underneath the driveway.

Mr. Homan also questioned if having a bathroom in the building would constitute as a second residence and Mr. Kolbus said no.

Mr. Miller asked if the Board could approve contingent upon Health Department approval and Mr. Homan said they could have that as one of the conditions.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a 7 ft. Variance to allow for the

construction of an accessory structure 3 ft. from the West side property line (Ordinance requires 10 ft.) be approved with the following conditions imposed:

1. Approved as per site plan submitted provided the applicant submits a release from the Department of Natural Resources concerning construction of sub-surface improvements within 100 ft. of a cemetery.
2. Approval from the Health Department regarding proper disposal of wastewater and sanitation for the proposed bathroom in the building.

After a unanimous roll call vote, the motion was carried.

9. The application of **Douglas E. & Myra K. Cors** for a 12 ft. Variance to allow for the construction of an attached garage 46 ft. from the front property line (Plat requires 58 ft.) on property located on the West side of Blue Ribbon Lane, 657 ft. North of Aqua Drive, being Lot 4 and part of Lot 3 of Dawn Edge 2nd, common address of 51249 Blue Ribbon Lane in Osolo Township, zoned R-2, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082943*.

There were 6 neighboring property owners notified of this request.

Douglas Cors, 51249 Blue Ribbon Lane, Elkhart, was present on behalf of this request. Mr. Cors indicated his wife is also present and they are requesting a setback Variance to allow them to move forward with remodeling their garage. Being close to the Simonton Lake channel, they don't have any basement space available that would be suitable for storage. He said they have two teenage daughters who are licensed drivers and need a place to park their vehicles. There won't be any additional living space involved and they will only be adding a stall and additional storage space.

Mr. Homan asked if this will be a single story addition and the petitioner said yes.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Cors indicated he has letters from both of his next door neighbors stating that they don't have an issue with this request, but they were not submitted to the Board.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a 12 ft. Variance to allow for the construction of an attached garage 46 ft. from the front property line (Plat requires 58 ft.) be approved as per site plan submitted. A roll call vote was taken and the motion was unanimously carried.

10. The Commitment Form for Appeal/Variance #20082443 for **Ron Foeckler** was presented at this time. The property is located on the west side of Fairwind Drive and 120 ft. south of Cypress Court in Concord Township. Mr. Lantz and Mr. Hesser signed the commitment form at this time.

11. The application of **Star Fleet** for a 10 ft. Variance to allow for construction of an addition to an existing office building 110 ft. from centerline of the right-of-way of SR 13 (Ordinance

requires 120 ft.) on property located on the Southwest corner of CR 4 and SR 13, common address of 11160 CR 4 in York Township, zoned M-1, came on to be heard.

One photo of the property was submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082957*.

There were 6 neighboring property owners notified of this request.

Floyd Lehman, Star Fleet, 2726 Firethorn Drive, Goshen, was present on behalf of this request. Mr. Lehman said they would like to dress up the front of the office and add a deck with a front step entryway leading to the main office.

Mr. Hesser asked if the request is strictly for a porch and the petitioner said yes. The porch will allow easier access to the main office.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a 10 ft. Variance to allow for construction of an addition to an existing office building 110 ft. from centerline of the right-of-way of SR 13 (Ordinance requires 120 ft.) be approved as per site plan submitted. After a unanimous roll call vote was taken, the motion was carried.

12. The application of ***James & Christine Goldsborough*** for an amendment to an existing Use Variance to allow for the installation of a scale on property located on the Southwest side of CR 10, 2,700 ft. Southeast of CR 1, common address of 29332 CR 10 in Cleveland Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082993*.

There were 12 neighboring property owners notified of this request.

Present on behalf of this request was Michael Christofeno, Attorney representing the petitioners, 115 West Lexington Avenue, Elkhart. Mr. Christofeno indicated the Goldsboroughs are requesting an amendment to their existing Use Variance to add a scale. The property is zoned A-1 and the Use Variance is in existence as a result of it being a prior legal non-conforming use when the Zoning Ordinance came into effect. This has been an auto salvage and towing business since 1958.

Mr. Christofeno said he would argue that the petitioner's don't need a Use Variance amendment to add this scale because it doesn't change the nature of the business in any way. The addition of the scale was done by the Goldsboroughs in order to remain competitive with others in the business. The problem occurring is if a car is brought in without being weighed, then it makes you wonder if you are getting a fair market value for the salvaged auto. The scale is 11 ft. by 40 ft. and measures two feet off of the ground. The vehicles come in through the gate, go over the scale, unload behind the scale, turn around to get weighed again, and then park to pay for their salvage. Mr. Christofeno said there will be no change to the traffic or noise. When looking at the findings, he feels it won't be injurious to the public health, safety, morals

and general welfare of the community because it's already in existence. The amendment of adding the scale won't change the use of the business.

Mr. Hesser asked if it will change their volume and Mr. Christofeno said no, it will not cause an increase in their business. The only reason that would happen is if their competitors were to drop out of the business.

The use and value of the area adjacent to the property would not be affected in a substantially adverse manner because there is no change to the use of the property. The need for the Use Variance arises from a condition that is peculiar to this property while it was operated since 1958 as a towing and auto salvage yard. The original Use Variance needed to be obtained and also this amendment in order to continue to operate a salvage yard at this particular location. If you get a strict application of the Zoning Ordinance, this business would be taken out completely. Mr. Christofeno feels that would be an unnecessary hardship to the property considering the business was there first and everything has built up around it. He indicated that is what happened last time the petitioners were in front of the Board. The agreement was reached with the neighboring subdivisions at that time.

The Comprehensive Plan won't be affected anymore than it already is as far as this particular piece of property since it's an existing and ongoing business. Mr. Christofeno said he would prefer the Board to table the request rather than to deny it. If the request is tabled, then the petitioners can come back with a detailed site plan and a more detailed account of the business for the Board. He isn't sure that will really provide the Board with a great deal of additional information to make a better decision.

Mr. Hesser asked if the lot to the south is also part of the business and Mr. Christofeno said yes.

Christine Goldsborough, 29413 CR 10 W, Elkhart, pointed out the location of the scale on the aerial photo. The customers pull in through the drive, go over the scale, re-weigh, and they pull into the parking area. They wanted the scale in that location because there are offices on one side of the building with windows, so they can see the people as they are coming and going. They also have an intercom to allow them to talk to the customers.

Regarding the site plan, Mr. Kolbus indicated they are missing a number of dimensions. Staff said they could probably work with it, but they wanted a complete dimension site plan. Mr. Christofeno said they would be willing to do that.

Mr. Christofeno said in the area that is immediately east of the building, there has never been a time where that area has been completely full. This is completely self contained and it doesn't spill over to cause traffic problems on CR 10.

Mr. Hesser said what is on the drawing doesn't conform to what is on the legal description. He asked if it makes a difference for advertising purposes that the scale isn't on the parcel that is highlighted. Mr. Christofeno said they listed both parcels when the petition was submitted.

Mrs. Prough said the site plan included the parcel to the south, but when the application was taken in, they only indicated that it was for parcel 001. She said parcel 002 should have also been included.

According to Mr. Kolbus, he feels the legal description should be sufficient. He said the legal description talks about substantial compliance and he doesn't see anything in there that is deceiving because it's a general statement of a common address. He feels they are alright from a legal standpoint, but he is more concerned about whether the Board has all of the information

they need and if the request was adequately represented. Mr. Kolbus said the site plan clearly includes both parcels.

Mr. Homan said it seems like there are two parts to this request. Not only is there the request for installation for the scale, but also for the expansion of business. On the Special Use questionnaire, item number two talks about non-ferrous metal, which he feels is a substantial change in the operation. He presumes there would be a lot more waste and asked how they would control that.

Mr. Christofeno said they have always done recycling of non-ferrous materials, so from their addition, it is not an expansion because they are simply continuing what they have always done. Their primary business is the salvaging of the autos, but they do and have always done some non-ferrous recycling. The part that would be somewhat deceiving is that the collecting might be on site, but it is being moved out on a very regular basis. There won't be any on site collection of the non-ferrous materials. The petition talks about a truck that is coming in and leaving as far as delivery/pick-up, which is how they remove the non-ferrous metal from the site.

Mr. Homan asked if it is common practice for people to bring refrigerators and washing machines to this location to have them recycled or turned in for cash. Mrs. Goldsborough said it's not real common, but people do bring those types of things on site. She indicated they would rather do automobiles and cars. She said a lot of the scrap belongs to the neighbors. They have a 50 yard container that sits there all the time. The box is constantly being filled and when it is full, they call their scrap processor to come pick it up and drop off an empty one. Mrs. Goldsborough said the scrap appliances do not sit there for any length of time, the cars do.

Mr. Kolbus said they are back because of the scale and the comments from the petitioner that they are now accepting appliances, steel and tin. He said they determined the combination was an expansion of the use.

Louis Gerencer, 29520 Lakefield Court, Elkhart, was present with some concerns regarding this request. Mr. Gerencer said he and his neighbors' concerns were if the Goldsboroughs put their trash into a container and haul it out weekly, they don't want it to turn into a scrap yard. He thinks it's great if this will help their business, but he doesn't want it to turn into big piles of trash.

Mr. Kolbus said he has not looked at the conditions from the original permit, but he asked Mr. Christofeno if they address pile heights. Mr. Christofeno said there were restrictions on the height that the vehicles could be stacked, which has been maintained. There were a number of restrictions in the first Use Variance that ended up being conditions. When he went through the property, he felt that the petitioners were complying or making their best effort to comply with everything that is there. He said the buffer and barrier between the subdivision and the yard is better than what it was when the petitioners were here before. The Goldsboroughs don't have any problem with restrictions of keeping them doing business just as they are now.

Mr. Kolbus said there seem to be numerous height setback restrictions.

Mr. Hesser asked how many property owners were notified of this hearing and Mrs. Wilson indicated 12.

Mr. Harrell said the last time the petitioners were here, all of the conversation was between the subdivision, developer, and the Goldsboroughs. They previously had around 500 tires on site and they are still working on that. Mr. Harrell feels that condition should continue if this request is approved. Mrs. Goldsborough told him that they are now leaving the wheels in the tires, which cuts down a lot on the mosquito problems.

Due to the lack of a staff recommendation, Mr. Hesser said he is inclined to leave the public hearing open for more evidence and table the request indefinitely.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Miller*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for an amendment to an existing Use Variance to allow for the installation of a scale be tabled indefinitely to allow the petitioner to work with the staff on the deficiencies the staff indicates exist, with a list of conditions to be established based on the changes the staff is requesting. The motion further reflects that the public hearing remain open with neighboring property owners to be re-notified. A roll call vote was taken and the motion was carried unanimously.

13. The application of **Chad Yutzy** for a Use Variance for a residential structure in a M-1 zone on property located on the East side of CR 15, 1,364 ft. North of CR 52, common address of 71234 CR 15 in Union Township, came on to be heard.

One photo of the property was submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082965*.

There were 9 neighboring property owners notified of this request.

Chad Yutzy, 71228 CR 15, New Paris, was present on behalf of this request. Mr. Yutzy pointed out the part of the property that was re-zoned residential. Around the tanks, they have earth and dikes that were in the event of an oil spill. He pointed out the location of the dike that runs ten feet high. The dark green area is all lawn at this point, so that area borders the dike. The dike gives a nice barrier to keep the tanks out of site. He explained they would like to put the residential structure in the lawn area, which is in the M-1 zoning. Mr. Yutzy said the building would be located 35 ft. away from the border.

Mr. Lantz asked who owns the tanks now and Mr. Yutzy said he owns them.

Mr. Hesser asked if he owns the other lot shown on the aerial and the petitioner said yes.

The Board asked what the intent is for building a second house on this adjacent property. Mr. Yutzy clarified that they would like to build a shop where he can park his RV, store his tools, and have an office. They don't want to block the view of the pond, which is why they chose this location.

Mr. Homan said the staff report indicates a residential structure, but the petitioner said it will be a storage building. Mr. Yutzy said it will be a pole structure.

Mr. Harrell indicated it would be considered a residential accessory building.

Mr. Kolbus said a residential accessory building is significantly different from a residential primary structure.

Mr. Lantz asked what the tanks can be used for and the petitioner said they are excellent nesting places for the swallows which keep the mosquitoes away. A few of the farmers also park some gravity wagons there in the winter time to keep them out of the weather. There used to be a bigger one there, but that one has been cut down.

Mr. Hesser asked if they are used for storage and Mr. Yutzy said they are too dirty because of the condensation. They were originally used for natural gas, but there is no commercial use there at all now. The previous concern was that they didn't want to change the zoning in the event that something could come up in the future regarding the tanks.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Lantz said he doesn't see a big problem with what the petitioner is trying to accomplish.

Mr. Hesser asked if it was rezoned to A-1, then would the tanks have to be removed. Mr. Kolbus said no, but they wouldn't be able to be used for a manufacturing purpose. The tanks would be able to stay on the property as legal non-conforming. If the property were to be downgraded to an agricultural zoning, then he couldn't put a manufacturing use back on the property without coming before the Plan Commission.

Mr. Homan said he feels there are other ways to do this because he doesn't see anything peculiar about the property.

Mr. Kolbus indicated this is a substation for crude oil that has been discontinued. He asked what else it could be used for without getting the property re-zoned. The property isn't going to be used for that purpose, but the petitioner wants to save the M-1 zoning.

Mr. Hesser indicated that all of the surrounding property is A-1. He doesn't feel there is anything unique about the proposed property and there isn't a substantial hardship.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/Hesser*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Use Variance for a residential structure in an M-1 zone be denied. After a unanimous roll call vote was taken, the motion was carried.

14. The application of **Thomas C. Davies** for a Use Variance for a towing business in an R-2 zone on property located on the North side of North Park, 80 ft. West of Lilac Street, common address of 25631 North Park in Osolo Township, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083002*.

There were 44 neighboring property owners notified of this request.

Tom Davies, 1828 Canton Street, Elkhart, was present on behalf of this request. Mr. Davies explained that when he purchased this property from Cressy & Everett, he was asked by his realtor what he wanted to do with it. At that time, he asked the realtor what the property is zoned because there are other houses in the area. Mr. Davies' realtor said that she checked with the county and it was indicated that he can't do any type of impounding, which he doesn't plan on doing. He uses the tow truck as his personal vehicle and he does tows for two or three businesses in town. This business is not a full blown towing business because the proposed property isn't nearly big enough for that.

As far as the building, Mr. Davies said it is currently used for storage because his wife had previously gotten sick and they had to sell their other property. He currently has an impaired son that lives with him and helps out with the towing business.

Mr. Lantz asked the petitioner if he only has one tow truck and Mr. Davies said yes. The other tow trucks shown in the picture are gone. He indicated that there is also a camper and a boat on the property. Mr. Davies said there was a loader on the property, but it has been sold to a friend who hasn't come to pick it up yet.

Mr. Hesser asked if there is currently a residence on the property and the petitioner said no. The property used to be a lock business that made railroad locks. The building also has three phase electricity running to it.

Mr. Hesser asked the petitioner if Butch's Auto Repair was operating when he bought the property. Mr. Davies said yes and indicated it was the primary use of the property.

The number of trucks was questioned by Mr. Homan and the petitioner said he has two trucks. One of the trucks is a flatbed truck and he also has one tow truck.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Lantz indicated he doesn't see a particular problem with this request.

Mr. Homan indicated he has two vehicles that are used for towing and picking up vehicles. He is on-call all of the time and Mr. Homan believes that is classified as operating a business on his property.

Mr. Homan asked the petitioner if he lives on the property and he said no.

Mr. Hesser asked if he lives nearby and Mr. Davies said yes, he lives with his son. They live in a trailer park not far from this property.

Since he has had his business at this location, he has only gotten a call one night when he had to go over to the shop because he needed some extra chain. He normally doesn't go to the property in question during the night-time hours.

As far as this particular use, Mr. Hesser indicated it doesn't necessarily bother him because it's been operated as a shop for 20+ years with no complaints. The fact that it's been operated for that long of a time without a residence on the property, it gets him over the hump of the uniqueness of the property. Mr. Hesser said he does have an issue with the mobile home request, which is the next item on the agenda.

Mr. Miller said he has no problem with this request because it's always been a business, but he also has an issue with the next item on the agenda, which is the mobile home.

Mr. Kolbus indicated the Board could limit the number of vehicles in the conditions they set.

Mr. Homan asked the petitioner if the building was emptied out, could both or either of the trucks be parked in the building. The petitioner indicated the building is not tall enough. He wishes it was because he's been having a lot of problems with gas and batteries being stolen.

It was questioned by Mr. Hesser if the number of vehicles should be limited. Mr. Lantz said he doesn't have a problem with that if it's only two. The petitioner indicated the flatbed truck is plated and insured as a one ton truck. It has no writing on the doors and has a roll back for hauling things. The other vehicle is a tow truck and is insured as a tow truck.

Mr. Kolbus suggested stating in the motion that there is to be no outside storage and approved for two vehicles as specified by the petitioner.

Mrs. Prough asked if the condition of no outside storage would include his camper, boat, and race car.

The petitioner indicated he would have no problem getting rid of those items.

Mr. Kolbus indicated those are residential items, so the petitioner needs to decide whether this will be used for a business or a residence.

Mr. Hesser suggested tabling the request for a month to allow the petitioner to work with the staff on this request and come up with a list of proposed conditions.

Mr. Kolbus explained to the petitioner that the Board is inclined to grant the request, but because the staff report was for denial, there are no conditions listed.

Mr. Homan said the issue that is bothering him is whether or not it's a business or residential use.

It was questioned by Mrs. Prough if the condition of no outside storage pertains to his camper and boat.

Mr. Kolbus suggested that the Board ask the petitioner if he could move the three residential items elsewhere or inside the building. The petitioner then indicated he can get rid of them and he has no problem with that.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/Miller*) that that based on the findings that this will not be injurious to the public health, safety, morals, and general welfare of the community, the use and value of the area adjacent to the property will not be affected in a substantially adverse manner, a need for the Variance does arise from a condition that is peculiar to the property involved, strict enforcement of the terms of the zoning ordinance would constitute an unnecessary hardship if applied to the property, and the Variance does not interfere substantially with the Elkhart County Comprehensive Plan, this request for a Use Variance for a towing business in an R-2 zone be approved with the following conditions imposed:

1. Approved for two (2) tow vehicles consisting of one flatbed truck (plated and insured as a one ton truck) and one tow truck (plated and insured as a tow truck) as specified by the petitioner.
2. With the exception of the two (2) tow vehicles specified in condition no. 1 above, there shall be NO OUTSIDE STORAGE of any other items on the property, whether those items be residential or commercial in nature, or otherwise.
3. With the exception of the two (2) tow vehicles specified in condition no. 1 above, within 30 days from the date of this notice all other items currently stored outside on the property shall be stored inside the building on the property or removed from the property.

A roll call vote was taken and the motion was carried with the following results: Homan – yes; Lantz – yes; Miller – yes; Hesser – no.

15. The application of **Thomas C. Davies** for a Special Use to allow for a mobile home on property located on the North side of North Park, 80 ft. West of Lilac Street, being Lots 167 and 168 of North Park, common address of 25631 North Park in Osolo Township, zoned R-2, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082988*.

There were 44 neighboring property owners notified of this request.

Tom Davies, 1828 Canton Street, Elkhart, was present on behalf of this request. Mr. Davies said he was trying to find a place for him and his son to live. They are looking at the possibility of putting the mobile home next to the shop on the existing lot. Mr. Davies said he isn't really in favor of the idea, but he told his daughter that he would check to see if it could be done. The petitioner said there are several mobile homes in the area.

Mr. Kolbus said the staff's file shows that both requests show the same legal description. The request is being asked for on both parcels combined because that's how it was applied for and advertised.

Mr. Davies indicated he has no problem with the denial of this request.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Lantz/Miller*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use to allow for a mobile home be denied. A roll call vote was taken and the motion was unanimously carried.

** (Mr. Kolbus stepped down from the Board at this time due to a potential conflict of interest.)*

16. The application of **Linda Wilson** for a Special Use for a home workshop/business for a portrait studio (Specifications F - #45) on property located on the West side of CR 9, 1,390 ft. North of CR 26, common address of 59725 CR 9 in Concord Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082983*.

There were 4 neighboring property owners notified of this request.

Linda Wilson, 59725 CR 9, Elkhart, was present on behalf of this request. Mrs. Wilson explained that she owns the property, but her husband is the photographer. He has been a photographer for quite some time doing weddings, senior pictures and reunions off premises. They would like to have a studio where they can do formal portraiture in the home.

Mr. Miller asked if this will be low impact and the petitioner said yes.

He also asked if customers would be allowed to turn around on the property to avoid backing out onto the county road. Mrs. Wilson indicated they do have a turn around that is for parking spaces.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller indicated he has no issues with this request.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a home workshop/business for a portrait studio (Specifications F - #45) be approved with the following conditions imposed:

1. Days and hours of operation to be Monday through Saturday, noon to 8:00 p.m.
2. One (1) sign four (4) sq. ft. per side and unlighted.
3. No backing onto CR 9.
4. Approved as per site plan submitted.

After a unanimous roll call vote was taken, the motion was carried.

** (Mr. Kolbus returned to the Board at this time.)*

17. The application of **Kelli K. & Randall L. Miller** for a Special Use for a bed and breakfast homestay (Specifications F - #12.75) on property located on the South side of US 20, at South end of CR 27 North, 2,500 ft. West of CR 29, common address of 17420 US 20 in Jefferson Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082981*.

There were 18 neighboring property owners notified of this request.

Kelli Miller, 17420 US 20, Goshen, was present on behalf of this request. Mrs. Miller said they would like to have a bed and breakfast with four bedrooms and two baths. She said it coordinates with the horseback riding stable, which is going very well. They have gotten a lot of inquiries about people wanting to stay on site, so she thought this would go well with it. Mrs. Miller would like to keep the business low key.

Mr. Miller asked if it's currently being operated as a bed and breakfast and the petitioner said no. She said it's currently a guided horseback riding stable which she received a Special Use for.

Mr. Hesser questioned the signage because the Special Use had been approved for a six by eight sign on US 20. He asked if there are two signs located in the area. Mrs. Miller said there is a temporary sign showing that the business is now open. Mr. Hesser believes there are two angled signs and the petitioner said when they made the sign, it was made out of fence post.

Mr. Hesser asked where the additional sign would be located. Mrs. Miller said it will be an attached sign to the existing sign that will hang below it. She said they made the first sign smaller than what is was really supposed to be. The total signage would be four square feet in addition to what was previously approved.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser said he doesn't have a problem with this request, but he does think that staff should drive by the site to verify that the petitioner's sign is in compliance with what had previously been granted.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Miller/Homan*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use for a bed and breakfast homestay (Specifications F - #12.75) be approved with the following conditions imposed:

1. Sign for the bed and breakfast to be attached to the existing sign on site and is not to exceed 1 ft. x 4 ft. as represented on the petitioner's questionnaire.
2. Four (4) rooms shall be available for rent.
3. The bed and breakfast shall be in compliance with the definition of a bed and breakfast homestay.
4. The staff is to verify that the original sign granted with Use Variance #20072916 is in compliance.

A roll call vote was taken and the motion was unanimously carried.

18. The application of **Scott & Crystal Cota** for a Special Use renewal for a kennel with an outdoor pen in an A-1 district (Specifications F - #15.10) on property located on the Southeast

corner of CR 24 and CR 1, being Lot 1 of Mann Minor, common address of 29970 CR 24 in Baugo Township, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as Case #20082852.

There were 13 neighboring property owners notified of this request.

Scott and Crystal Cota, 29970 CR 24, Elkhart, were present on behalf of this request. Mrs. Cota submitted a packet of photos to the Board *[attached to file as Petitioner Exhibit #1]* and also a packet of information regarding shot records for each of the seven dogs *[attached to file as Petitioner Exhibit #2]*.

In the past summer, they have added a fence across the back of their yard. They are currently in the process of fencing in the entire backyard. There are currently six horses and one goat behind their property, so they put up the privacy fence so the dogs aren't able to see those animals. The backyard will be fully enclosed with a six ft. privacy fence very soon.

Mr. Homan asked if the horses and goats belong to them and Mrs. Cota said they belong to the neighbors who have less than three acres.

Mr. Cota explained that all of the dogs go to the vet regularly and they are up to date on all of their shots and heartworm checks. Mrs. Cota said the dogs are groomed and well maintained.

Mrs. Cota said they were supposed to maintain the fence along the property lines between their property and the Hammond's property, which has been completed. One of the other neighbors wanted it entirely fenced in, but the Board determined that it wasn't going to be a problem because there was nothing existing in the pasture behind their house. However, the Hammond's and the Adams' did a lot of construction this past summer. She explained they put up fencing along their entire properties and put in a horse lean to 100 ft. away from the existing dog kennel. The noise disrupted her dogs a lot, so they barked a little more back in June/July. Therefore, the Cota's decided to go ahead and fence in their entire backyard.

Mrs. Cota said the dogs are currently confined to a small square area until they get the fence completed. They don't get much exercise time unless all seven of them are taken for a walk. Mr. Cota said the dogs don't stay outside, they are inside personal pets. They don't stay outside for long periods of time because they only go out to go to the bathroom, get a drink of water and eat. Mrs. Cota said they are outside for an hour at a time three or four times a day.

Mr. Homan explained that the staff has received a letter in remonstrance of this request and gave the Cota's a copy of it.

Mark Hammond, 29930 CR 24, Elkhart, was present in opposition to this request. Mr. Hammond explained that he lives immediately next door to the Cota's. Their house is 42 ft. away from the Cota's property line. He said he is still very much against this because they have dealt with noise and living next to the Cota's has greatly diminished their quality of life.

Mr. Hammond then read the second paragraph of the Elkhart County Noise Ordinance, which states, "*Whereas excessive noise from motor vehicles and other sources has a negative effect on the health, safety, welfare and comfort of the citizens and degrades the quality of life in the community.*" Mr. Hammond said that's exactly what has happened to him and his wife.

Within one month after this was approved, they called law enforcement as Mr. Harrell directed them to do if they have problems. When law enforcement came out, they didn't seem to understand the Noise Ordinance because he had specifically requested that it be explained to the

Cota's. The officer and the dispatcher didn't understand it, so Mr. Hammond then realized that he won't get anywhere with law enforcement.

Mr. Hammond said this area is zoned A-1 and not M-1. He and his wife have lived in the country for over 40 years because it tends to be quieter. He said this has not been the case the past couple of years and he asked the Board to give them back one of the reasons why they moved to the country. He asked that the Board deny this petition.

Melody Hammond, 29930 CR 24, Elkhart, indicated that their home is approximately 100 ft. from the Cota's dog pen. She said they can't sit on their patio or front porch because of the barking. At times, the Cota's seem to be outside and the dogs are still not quiet. Mrs. Hammond said the fence hasn't buffered any noise on their part. In the past three weeks, Mr. Cota has added the additional panels, but it's still constant barking as it was in the beginning.

Steve Adams, 59200 CR 1 South, Elkhart, was present on behalf of this request. Mr. Adams said his property borders the Cota's property to the south, which he pointed out on the aerial photo. Mr. Adams said the barking is endless and there is no enforcement. The police have been called out and they say that it's a county problem. He has a 300+ thousand dollar house and that will take away from his property value. He feels that nothing is being done about it, which is the main issue.

Mr. Cota said Mrs. Prough has been out to the house while the dogs were outside and she has never heard them bark. He doesn't understand how these things can be happening when people from the staff, county, and Humane Society have been out to the property when the dogs don't bark at all. He feels that his property is being devalued because of the horse manure from Mr. Adam's property.

Mrs. Cota said the only dog she has currently that is a barker is named Molly. They have put a barking collar on her. She doesn't use a muzzle, as indicated in the letter in remonstrance, because that wouldn't allow the dogs to eat or drink.

She indicated that Mr. Adams has a problem because he was building 100 ft. away from their kennel and the noise was hurting the dogs' ears. They were barking at him because they weren't used to that type of noise.

Mrs. Cota said in June and July, there were some issues with barking while the Hammond's were doing construction. She said there are a lot of feuds happening between them and the neighbors.

Mrs. Prough said since the Special Use was granted, she has been out there three times. She was out to the site once in November of 2007 to check compliance and she said they were in compliance at that time with no barking on site. In June of 2008, she was out on a complaint regarding the noise, but they were in compliance at that time. Mrs. Prough said there was barking when she and Mrs. Cota went outside, but they stopped right away. She was there for about half an hour and didn't hear the dogs bark anymore. She went out to the property one time after that and she heard no barking.

The public hearing was closed at this time.

Mr. Homan indicated there is no decision that the Board can make to allow everyone to be happy. The Special Use is being operated within the restrictions that were presented and Code Enforcement is satisfied. He doesn't see the Board retracting the Special Use at this point.

Mrs. Prough indicated the Board could put a condition on the request regarding the barking, but it's very hard to enforce. The county currently has an Animal Control Ordinance that regulates barking. However, that Ordinance accepts Special Use permits for kennels. They

also have a Noise Ordinance that doesn't accept kennels. There are currently two different Ordinances that conflict. She indicated that barking is very hard to enforce and monitor.

Mr. Hesser feels the neighbors should be aware of these conditions and if these conditions aren't met, then they can notify the staff.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Hesser*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for a Special Use renewal for a kennel with an outdoor pen in an A-1 district (Specifications F - #15.10) be approved with the following conditions imposed:

1. Approved for seven (7) small dogs (12 lbs. or less), five (5) females and two (2) males.
2. No outside employees.
3. Days and hours of operation to be Monday through Friday, 8:30 a.m. to 4:30 p.m.; Saturday 10:00 a.m. to 3:00 p.m.; closed on Sunday; and by appointment only.
4. The existing six (6) foot privacy fence to be maintained.
5. One (1) double face sign permitted, four (4) sq. ft. per side and unlighted.
6. Existing 14 x 16 ft. kennel to be maintained.
7. Approved as per site plan submitted.
8. The operation of the business is to be limited to the owner/occupants of the residence.
9. Approved for an indefinite period of time unless there are verified complaints received by Code Enforcement. If verified complaints are received by Code Enforcement, the Special Use will be referred back to the Board of Zoning Appeals for review.

A roll call vote was taken and the motion was carried unanimously.

19. The application of **Gary & Rachelle Treharne** for an Appeal for the construction of an accessory building on a parcel without a residence on property located on the South side of Bluff Drive, 900 ft. East of CR 21, 2,650 ft. North of CR 38 in Elkhart Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082995*.

There were 7 neighboring property owners notified of this request.

Gary Treharne, 19880 Bluff Drive, Goshen, was present on behalf of this request. Mr. Treharne explained that he would like to build an unattached two and a half car garage on the lot immediately east of where his residence is located. The building would be used for personal storage and there wouldn't be any business use. Mr. Treharne submitted a packet to the Board including drawings of the proposed accessory building *[attached to file as Petitioner Exhibit #1]*.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Homan said it's basically a double lot.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for an Appeal for the construction of an accessory building on a parcel without a residence be approved as per site plan submitted. A unanimous roll call vote was taken and the motion was carried.

** (Mr. Hesser stepped down from the Board at this time due to a potential conflict of interest.)*

20. The application of **James Bishop** for an Appeal to allow for the construction of a residential structure on property served by an access easement, and an Appeal to allow for the expansion of a residential use (construction of accessory building in a manufacturing district) on property located on the East side of Best Avenue, 600 ft. South of Mishawaka Road (CR 20), common address of 57772 Best Avenue in Baugo Township, zoned M-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082949*.

There were 4 neighboring property owners notified of this request.

James Bishop, 577 Best Avenue, Elkhart, was present on behalf of this request. Mr. Bishop explained that he needs more room to store his cars and motorcycles. They don't fit in his current garage, so he would like to build a new one.

Mr. Homan asked the petitioner if he currently lives on the property and Mr. Bishop said yes.

Mr. Homan asked how this petition came about and Mr. Harrell said it was vacated by a previous owner back in the 1960's. They aren't sure why it was vacated, but there was never a road going down to this area.

The Board asked if there is currently a house and a trailer on the property. Mr. Bishop said yes and indicated there are three lots there.

Mr. Homan asked if this is an Appeal to let the house stay in this location and build a garage and Mr. Harrell said yes.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Homan/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for an Appeal to allow for the construction of a residential structure on property served by an access easement, and an Appeal to allow for the expansion of a residential use (construction of accessory building in a manufacturing district) be approved as per site plan submitted. A roll call vote was taken and the motion was carried unanimously.

** (Mr. Hesser returned to the Board at this time.)*

21. The application of **Bruce & Cheryl Snyder** for an Appeal to allow for the construction of a residential addition on property served by an access easement on property located on the 1,986 ft. North off of CR 38, 1,900 ft. East of CR 19, common address of 20419 CR 38 in Elkhart Township, zoned A-1, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20083016*.

There were 11 neighboring property owners notified of this request.

Kathy Gingerich, J.L. Construction, 21947 Kimberly Drive, Goshen, was present representing the petitioners. Mrs. Gingerich said the Snyder's would like to build a two story

addition to their existing house. The addition would include a two-stall garage on the main level, and a master bedroom and bathroom on the upper level.

The location of the easement was questioned by the Board, but was then pointed out on the aerial photo.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Lantz*) that the Board adopt the Staff Analysis as the Findings of the Board, and based upon these Findings, this request for an Appeal to allow for the construction of a residential addition on property served by an access easement be approved as per site plan submitted. A roll call vote was taken and the motion was unanimously carried.

22. The application of **Jeff Hoogenboom** for an Appeal to allow for the construction of an accessory structure on a parcel without a primary structure, a 20 ft. Variance to allow for said accessory structure 30 ft. from centerline of Indiana Lake Road (Ordinance requires 50 ft.), a 32 ft. Variance to allow for said accessory structure 18 ft. from centerline of Church Road (Ordinance requires 50 ft.), and a 2 ft. Variance to allow for construction of said accessory structure 18 ft. from the North side property line (Ordinance requires 5 ft.) on property located on the Northeast corner of Indiana Lake Road and Church Road, being Lot 16 of Fern Ridge 3rd, common address of in Washington Township, zoned R-2, came on to be heard.

Photos of the property were submitted to the Board by the staff *[attached to file as Staff Exhibit #1]*.

Mr. Harrell presented the Staff Report/Staff Analysis, which is attached for review as *Case #20082985*.

There were 7 neighboring property owners notified of this request.

Jeff Hoogenboom, 25786 Kiser Court, Elkhart, was present on behalf of this request. Mr. Hoogenboom submitted a packet of photos of the neighboring properties to the Board *[attached to file as Petitioner Exhibit #1]*.

Mr. Hesser asked which parcel the petitioner lives on and Mr. Hoogenboom indicated it's directly across the street.

Mr. Hoogenboom was then given a copy of the letters in remonstrance to this request.

Mr. Kolbus asked the petitioner if there are petitioners of the petitioner, but it was clarified that there are not.

The primary use of the building was questioned by Mr. Homan and the petitioner indicated it would be used for cars and personal storage. The petitioner said he would not be operating a business out of the building. He lives in Elkhart, but he would like to move to this location. He needs to be able to build a garage across from his residence so he can store his belongings when he moves.

Jean Pedler, 50658 E. Indiana Lake Road, Elkhart, was present in opposition to this request. Ms. Pedler said she lives down the road from where the petitioner wants to put up his building. They have concerns about the snow removal during the winter if the building is that close to the road. Ms. Pedler said the other buildings in the area that are close to the road were built back in the 60's or 70's before the zoning regulations were in effect. The road is used a lot in the summer by bicycles and golf carts and she is worried that somebody is going to get hurt. She indicated that some of the neighbors have already complained about the lean to because they can't see around the corner. Some other concerns are the size of the building and the structure being inconsistent with the others in the area.

Mr. Hesser questioned the concern regarding snow removal. Ms. Pedler said the road is very narrow and they do have problems in the winter as it is. There is only enough room for one car coming down the dead end road. She pointed out the road location on the aerial photo. She clarified that the road between Indiana Lake Road and CR 23 dead ends just before Mr. Hoogenboom's house. There are also school buses that come down that road as well. Mr. Hesser then showed Ms. Pedler the submitted site plan.

Ms. Pedler asked if there is going to be a second story on the structure and Mr. Kolbus indicated the Board would ask the staff.

Richard Jessup, 50697 E. Indiana Lake Road, Elkhart, was present in favor of this request. Mr. Jessup said he lives next door to Mr. Hoogenboom. He indicated he's in favor of this request provided it's far enough back from Indiana Lake Road to allow access for people coming down Church Street to stop and see appropriately in both directions. Mr. Jessup feels the location of the building is plenty adequate. Indiana Lake Road and Church Road are not very highly traveled areas. At the corner of Church Road and Indiana Lake Drive is a dead end and there isn't a stop sign or a yield sign there. He feels that should be considered by the county.

Mr. Hesser asked if most of the residents are year around residents. Mr. Jessup said most of them are, but some don't live there all year long.

Mr. Jessup said two lots down from Mr. Hoogenboom's house, there is currently a garage that is 24 x 36. The petitioner isn't much different than that, so Mr. Jessup feels he would be in compliance with the other buildings.

Bill Paris, 50725 E. Indiana Lake Road, Elkhart, lives a couple houses down from Mr. Hoogenboom. Mr. Paris explained that his chief concern is the structure being two stories. He feels that will block the view as people are coming down the hill. He is concerned because there are no stop signs or yield signs at the intersection.

The Board then showed Mr. Paris a copy of the submitted site plan showing the setbacks.

Mr. Hoogenboom said if the main concern is the two stories, then he can tone it down to a single structure if necessary.

Mr. Lantz asked where the hill is located because it has been brought up several times. Mr. Paris indicated that the top of the hill on Church Road is approximately 40 ft. higher than the bottom. Mr. Hoogenboom feels that if his building is back 30-35 ft. from the center line of the road, there should be plenty of room to look both directions for oncoming traffic.

Mr. Homan asked if Indiana Lake Road is wide enough for two cars and Mr. Hoogenboom said yes. Mr. Harrell indicated the right-of-way is 20 ft.

Mr. Hesser asked the staff if they have any concerns with the visibility issue and Mr. Harrell said no.

With respect to the two-story structure issue, Mr. Harrell said the staff was under the impression that it would only be one story.

Mr. Kolbus said the photographs submitted by the petitioner show all of the garages on surrounding properties being single story structures.

The public hearing was closed at this time.

Mr. Homan said he thinks it would be nice to have a yield sign in the area, but that's an issue with the Highway Department.

The Variance on the north side was then questioned by Mr. Homan and Mr. Harrell indicated that is a typing error in the staff report. It should say "...a 2 ft. Variance to allow for

construction of said accessory structure 3 ft. from the North side property line (Ordinance requires 5 ft.).”

The Board examined said request, and after due consideration and deliberation, a motion was made and seconded (*Hesser/Lantz*) that the Board adopt the Staff Analysis (as amended by the Board) as the Findings of the Board, and based upon these Findings, this request for an Appeal to allow for the construction of an accessory structure on a parcel without a primary structure, a 20 ft. Variance to allow for said accessory structure 30 ft. from centerline of Indiana Lake Road (Ordinance requires 50 ft.), a 32 ft. Variance to allow for said accessory structure 18 ft. from centerline of Church Road (Ordinance requires 50 ft.), and a 2 ft. Variance to allow for construction of said accessory structure 3 ft. from the North side property line (Ordinance requires 5 ft.) be approved as per site plan submitted with the accessory structure being limited to one story. After a unanimous roll call vote was taken, the motion was carried.

23. There were no items transferred from the Hearing Officer.

24. There were no audience items.

25. The review of a Special Use #20073238 for **Stephanie J. Routh** was presented at this time. The property is located on the southeast corner of Cedar Knoll Circle and 185 ft. North of Bel-Ridge Drive in Concord Township.

Mr. Harrell explained that this Special Use for a beauty shop in an R-1 district was approved last year. One of the conditions was to have the Board review the petition in one year to verify compliance. He explained that the staff hasn't received any complaints on the property and recommended that the Board renew the Special Use for an extended period of time.

Mr. Homan questioned which subdivision this property is located in and Mr. Harrell indicated Summit Ridge Subdivision.

Mr. Hesser asked if notices were sent out regarding this review. Mr. Kolbus said notice was sent to the petitioner for the review. There were remonstrators at the original hearing, so the Board wanted to review it as a staff item. He clarified that this hearing didn't require notices to go out to neighboring property owners.

A motion was made and seconded (*Hesser/Miller*) that the Special Use review for this request is found to be in compliance and the petitioner is allowed to continue as originally granted. A unanimous roll call vote was taken and the motion was carried.

26. See page 3, item #10 for the signature of the commitment form for **Ron Foeckler**.

27. The meeting was adjourned at 11:28 a.m.

Respectfully submitted.

Randy Hesser, Chairman

Tom Lantz, Secretary