



**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF JUNE 15, 2021 MEETING**

MEMBERS PRESENT:

Mr. Scott Bachmann
Mr. John Fessler, TPO
Mr. Michael Williams
Ms. Jessica Hurley

STAFF PRESENT:

Ms. Cindy Minter, Director
Mr. Kirk Hunter, Principal Planner
Mr. Matt Smith Legal Counsel
Ms. Emily Woodward, Secretary

MEMBERS ABSENT:

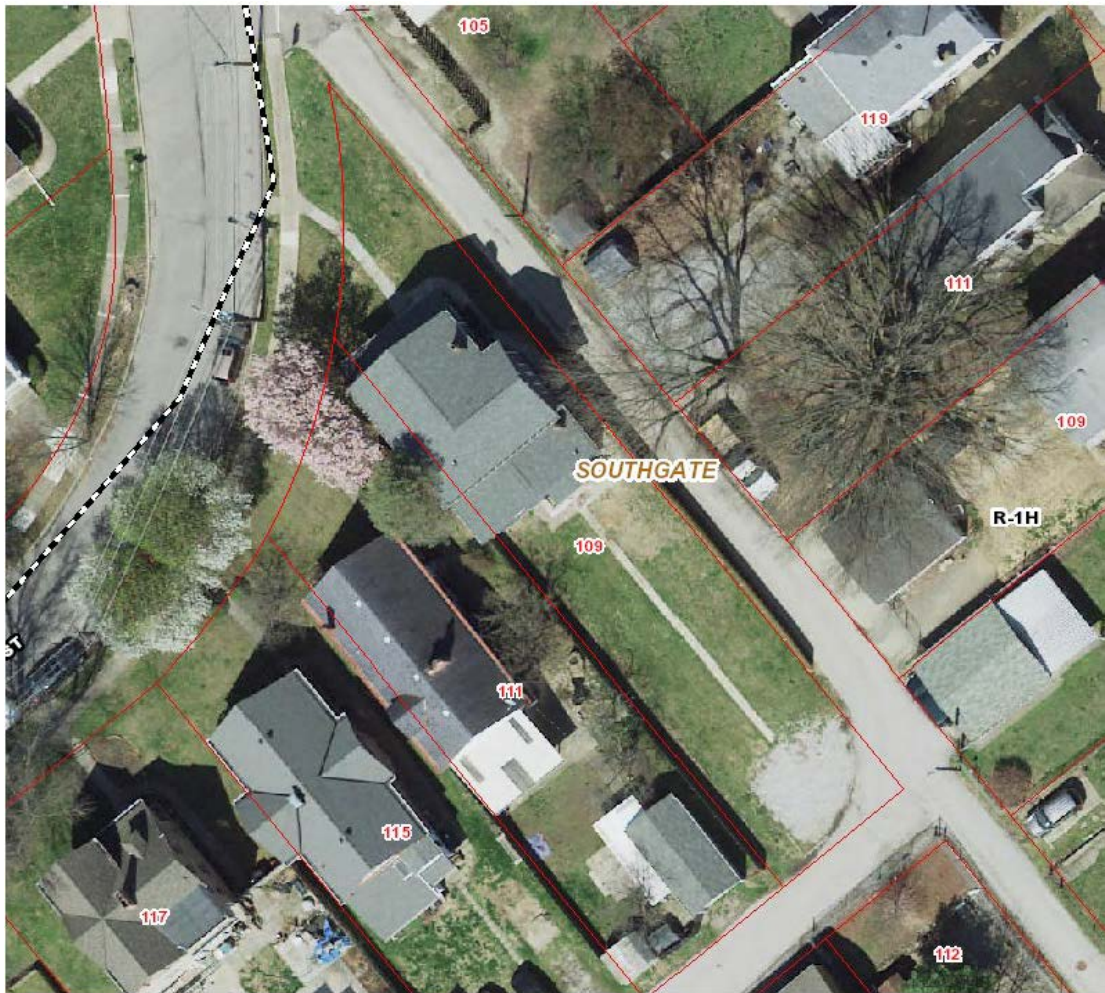
Mr. Joseph Williams
Mr. Justin Verst, Chair

Mr. Bachmann called the meeting to order at 6:08 PM.

Following the Pledge of Allegiance, Mr. Bachmann turned the board's attention to the previous meeting's minutes. Mr. Fessler noted a correction that Mr. Bachman should be noted as having seconded the motion to adjourn. With that correction, Mr. Williams made a motion to approve the minutes, seconded by Mr. Fessler. A roll call vote found all in favor, none opposed. The minutes were approved with one condition.

Mr. Hunter added as a note that there were originally 3 cases slotted for this evening. However case BA-21-008 had been postponed due to an incomplete application. Mr. Hunter then presented the staff report for care BA-21-0010 as follows:

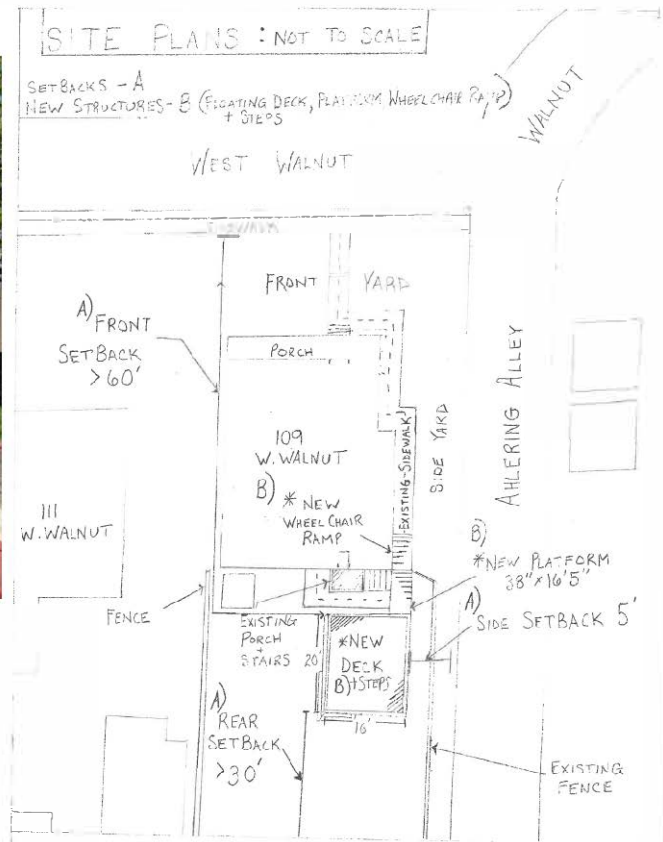
File Number: BA-21-010
Applicant: Robert Zion
Location: 109 W Walnut Street, Southgate, KY
Request: Side yard setback variance for a deck



Background:

1098 Monmouth Street • Newport, KY 41071

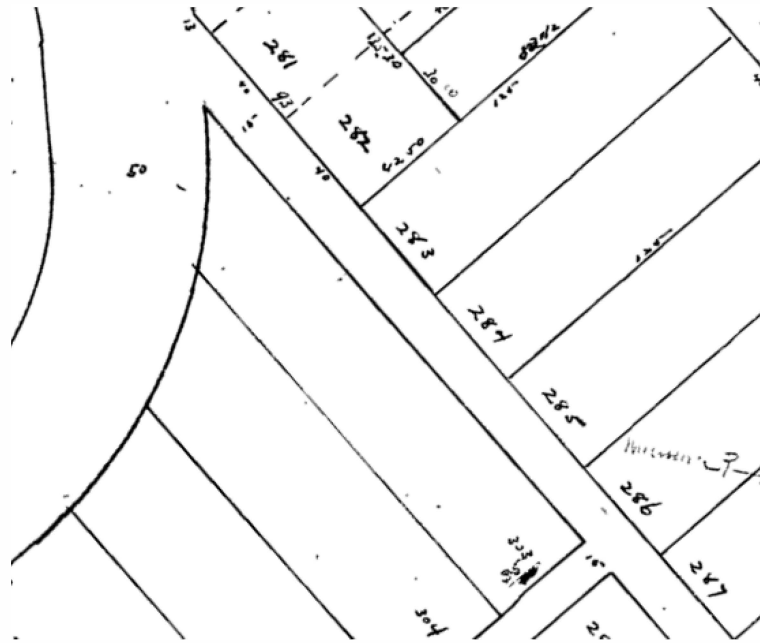
The applicant began construction on the deck in April 2021 without obtaining a permit. County Building officials issued a stop-work order on the project on April 26. The applicant applied for a building permit shortly thereafter. The site plan accompanying the permit indicated a setback distance of five (5) feet from the side property line. A site visit by a County Building inspector confirmed that the structure was closer to the side property line than indicated on the site plan.



Considerations:

The applicant is requesting a side yard setback variance for the construction of a new deck. The side yard of 109 West Walnut abuts an alley. There is a privacy fence along the property line in the rear yard.

1. The site is approximately six thousand (6,000) square feet in area. It is located in the City of Southgate on the corner of West Walnut Street and Ahlering Alley. This site is located in the Residential One-H (R-1H) Zone. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas as *Higher-Density Single-Family Residential*.
2. The parcel is lot 303 of the NS Shaler Subdivision. The subdivision plat confirms the fifteen (15) foot alley right-of-way.



3. Currently, the surrounding land is zoned Residential One-H (R-1H) and comprised primarily of residential uses.
4. The Southgate Zoning Ordinance Article X, Section 10-5 classifies the area within the Residential One-H (R-1H) Zone.
5. The minimum setbacks for the R-1H zone are:

R-1H Zone		
<u>Description:</u>	<u>Regulations Require:</u>	<u>Applicant's Request:</u>
Minimum Lot Area:	Four thousand (4,000) square feet	
Minimum Lot Width:	Forty (40) feet	
Minimum Front Yard Depth:	Twenty-Five (25) feet	
Minimum Side Yard Width:	Five (5) feet	Two (2) Feet
Minimum Rear Yard Depth:	Twenty-Five (25) feet	
Maximum Building Height:	Thirty five (35) feet	

6. A review of public records indicates the following:
 - a. No previous requests for a variance have been submitted for this site.
 - b. The dedicated public right-of-way on Ahlering Alley is fifteen-feet wide (seven and one half [7-1/2] feet from the center of the alley).
 - c. W Walnut and Ahlering Alley are City-maintained.

7. The proposed setback variance will not interfere with the line-of-sight for motorists on this section of Ahlering Alley or W Walnut.
8. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance. ***A legal notice appears in the May 27, 2021 edition of the Campbell County Recorder advertising applicant's request and the hearing to be held on June 15 20, 2021.***
9. According to Section 18.6, A., 4., the Board of Adjustment must find that:
 - a. The requirements of this section have been met by the applicant for a variance;
 - b. The reasons set forth in the application justify the granting of variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
 - c. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance as well as the Adopted Comprehensive Plan and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

Summary of Applicants Request:

The applicant is requesting a three (3) foot side yard setback variance for the construction of a deck and reducing the five (5) foot setback to two (2) feet.

Staff Comments:

The use of the property is consistent with the adopted 2008 Comprehensive Plan.

In reviewing the original subdivision plat, photos submitted by the applicant and aerial photography, staff recommends amending the request to a variance of *five (5) feet*. The existing fence appears to be constructed on the property line and the deck construction abuts the fence. The height of the deck does not exceed the height of the permitted fence.

The requested variance does arise from special circumstances which exist and do not generally apply to land in the general vicinity or in the same zone. The side yard abuts an alley.

The application of the provisions of this Ordinance would create unnecessary hardship on the applicant. The side setback minimums are set for various reasons. One such reason is to maintain fire separation between structures. As the deck is constructed next to a fifteen-foot public right-of-way, it maintains more than adequate fire separation from neighboring properties.

The applicant is requesting this variance subsequent to the approval of these regulations.

The essential character of the neighborhood is higher-density single-family residential and this action is compatible with those uses.

This variance would not be granting the applicant a special privilege.

Staff Recommendation:

To approve the applicant's request for a side yard variance of five (5) feet for a deck.

Basis for Recommendation

1. In accordance with Section 18.2 of the Southgate Zoning Ordinance, notice of public hearing was given.
2. In accordance with KRS 100.241 Variances, the board shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.
3. The evidence presented by the applicant and staff is such as to make a finding that:
 - a. The requirements for a variance have been met by the applicant for a variance and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - b. The variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board considered whether:
 - i. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - iii. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
 - iv. The variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

- v. The variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone.

Mr. Bachmann then invited the applicant to speak. The applicant explained that he had constructed the deck without awareness of the relevant ordinances, and not in intentional defiance. They noted that they are new residences to the home and the area.

There being no public comment, and no additional questions from the board, Mr. Williams made initial comment that he saw no reason that the deck would cause any issues in the area. He then made a motion to approve the 5 ft variance for a deck. The motion was seconded by Mr. Fessler. A roll call vote found all in favor, none opposed. The motion carried and the variance was approved.

Mr. Bachmann then directed the board to the next case of the evening, BA-21-006. Ms. Minter presented the staff report as follows:

FILE NUMBER:	BA-21-006
APPLICANT:	Ricky Schweitzer and Dori Schweitzer
LOCATION:	7947 Tiphpenhauer Road, Unincorporated Campbell County, KY.
REQUEST:	Conditional Use Permit for operation of a home-based business with waivers related to the storage of equipment and materials and for the number of non-resident employees.

Campbell County and Municipal Board of Adjustments

An application was submitted to the Zoning Administrator for the Campbell County and Municipal Planning & Zoning Commission for the operation of a Home-Based Business at 7947 Tiphpenhauer Road in Unincorporated Campbell County.

This application includes a request for a Conditional Use Permit due to the type of proposed Home-Based Business and a waiver for the number of non-resident employees as part of this proposed home-based business. This case is related to an appeal of the Zoning Administrator's decision to cease and desist (BA-21-005) which was previously upheld by the Board of Adjustment. The Applicants have modified their operation plan of the business at 7947 Tiphpenhauer Road and are currently seeking a Conditional Use Permit with a Wavier for the number of employees.

Hearing Notice:

Notice of this hearing was place in both the Campbell County recorder and published through

the County's social media. The notice was also mailed to fifty three (53) neighboring property owners along Tippenhauer Road.

Copies of this report were also placed on the County website, and made available at the Planning & Zoning Office.

Previous Case:

Note that the Board of Adjustments did grant a Home-Based Business permit (BA-21-004) with a waiver for up to 3 non-resident employees for the operation of an office in an accessory structure at 7897 Tippenhauer Road. The site for this previous case is the primary residence of Ms. Dori Schweitzer and is adjacent to the site at 7947 Tippenhauer Road which is under consideration for a Conditional Use Permit for a Home-Based Business.

The proposed uses are unique to each parcel but sites both are affiliated with ANDIS LLC.

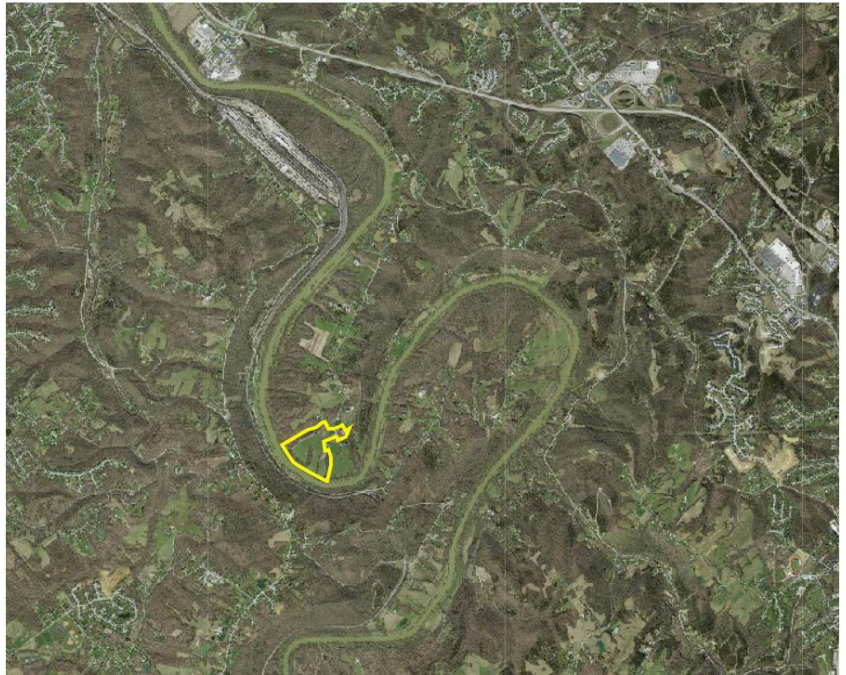
According to online records from the Kentucky Secretary of State Office dated 2/11/2021, DORI SUE SCHWEITZER, 7897 Tippenhauer Rd is the organizer, manager, registered agent of ANDIS LLC.

The business type is listed as Construction.

Commonwealth of Kentucky Michael G. Adams, Secretary of State		LARP 1007412 Michael G. Adams KY Secretary of State Received and Filed 2/11/2021 1:57:05 PM Fee receipt: \$15.00								
Michael G. Adams Secretary of State P. O. Box 1150 Frankfort, KY 40602-1150 (502) 564-3490 http://www.sos.ky.gov	Annual Report Online Filing	ARP								
Company: ANDIS, LLC Company ID: 1007412 State of origin: Kentucky Formation date: 1/10/2018 12:00:00 AM Date filed: 2/11/2021 1:57:05 PM Fee: \$15.00										
Principal Office 7897 Tippenhauer Rd Highland Heights, KY 41076										
Registered Agent Name/Address DORI SUE SCHWEITZER 7897 Tippenhauer Rd Highland Heights, KY 41076										
Members/Managers Manager Dori S. Schweitzer 7897 Tippenhauer Road, Highland Heights, KY, 41076										
<table border="1"><tr><td>County:</td><td>Campbell</td></tr><tr><td>Business size:</td><td>Small</td></tr><tr><td>Ownership:</td><td>Women-owned</td></tr><tr><td>Business type:</td><td>Construction</td></tr></table>			County:	Campbell	Business size:	Small	Ownership:	Women-owned	Business type:	Construction
County:	Campbell									
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Ownership:	Women-owned									
Business type:	Construction									
Signatures Signature Dori Schweitzer Title Manager										

General Vicinity:

The site is located in the in a largely agricultural / rural residential community along Tippenhauer Road. This area is Zoned Agricultural-One (A-1). Home-based businesses are permitted as accessory uses and subject to Article IX, Section 9.11 of the Campbell County Zoning Ordinance.



Tippenhauer Road is designated as a no-outlet road. The County Maintained Road List identifies this road as blacktopped, approximately 2.13 miles in length, and a width of 18 ft. The speed limit is posted at 25 MPH. This road

gradually decreases in width along its length. Several signs exist along the road warning of special conditions such as sharp curves, blind humps and soft shoulders.

Overall pavement conditions reflect the need for a future pavement repair. There are no plans to widen or upgrade the road as part of the County roadway maintenance.

The land uses surrounding the property consist primarily of agricultural land, open space and large lot residential.

There are multiple home-based businesses on Tippenhauer Road. Some of these businesses align with Kentucky Revised Statute (KRS) 100.253 (3) which allows existing non-conforming uses that have been in existence for 10 years or more to continue. KRS 100.253 does not apply to business which have been operating on a site for less than 10 years. ANDIS, LLC was formed on 1/10/2018.

100.253 Existing nonconforming use, continuance -- Change -- Effect of nonconforming use of ten years' duration -- Application.

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

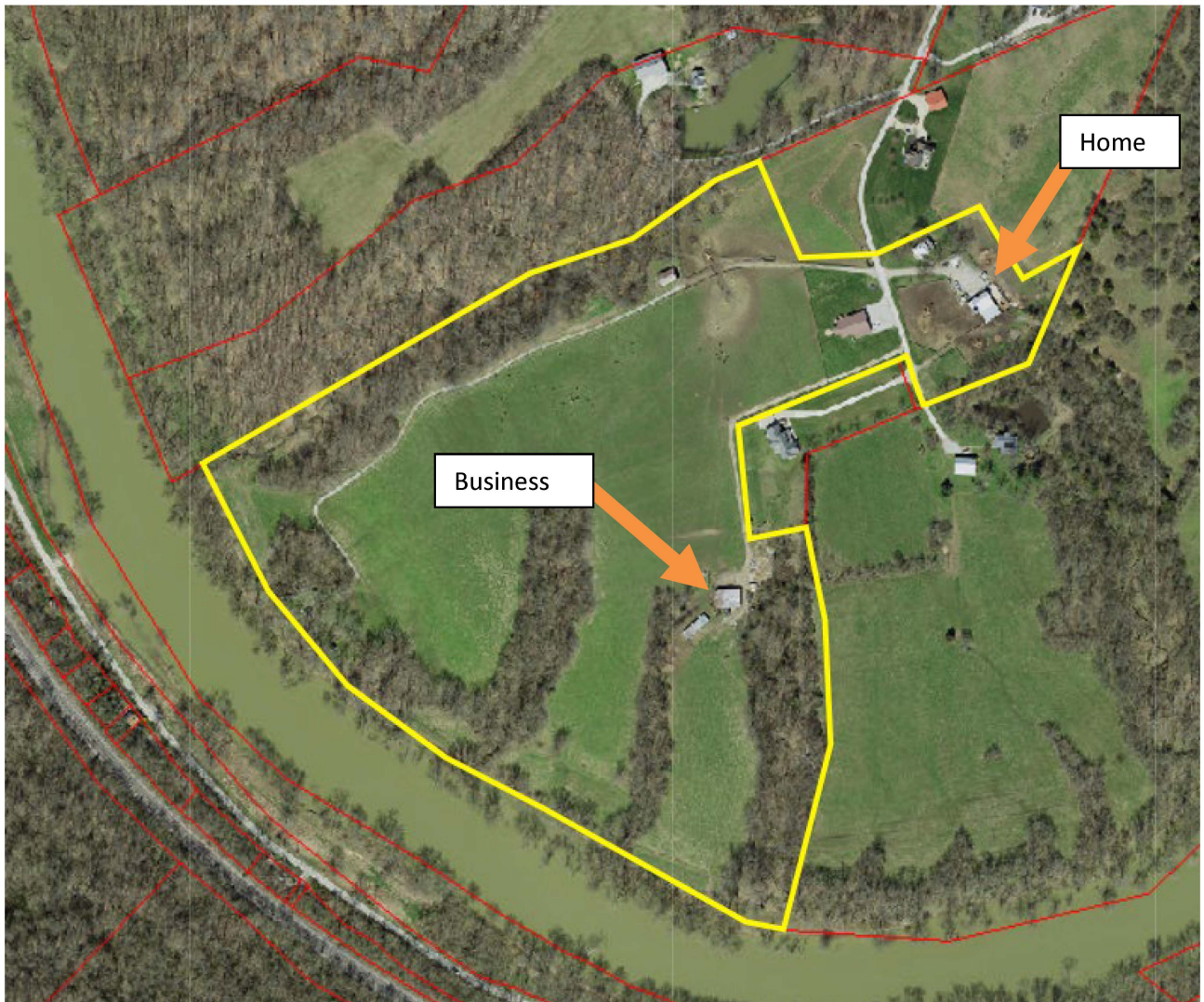
(2) The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not apply to counties containing a city of the first class, a consolidated local government, an urban-county government, or a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census.

The subject site is Parcel 999-99-20-004.00 at 7947 Tippenhauer Road. It is approximately 54 acres and owned by RICKY SCHWEITZER and DORI SCHWEITZER.

The 54-acre parcel spans Tippenhauer Road and is the primary resident of Mr. Ricky Schweitzer. Mr. Schweitzer is not registered as an owner of ANDIS, LLC.



Request:

Article 9, Section 9.11 Home-Based Business details the requirements for operating Home-based Business including those within the A-1 zone.

The type of business proposed, described by the applicant as “support for public utility”, is largely a construction staging area for industrial field services. This type of use would require a Conditional Use Permit.

The applicant is requesting to operate out of one accessory structure with an adjacent gravel parking lot for equipment and vehicles. The gravel parking lot can hold approximately 8 vehicles.

The applicant has stated that, "The current gravel road will be paved as to not adversely impact the adjoining property. The barn which will be used for the storage of equipment will be closed in. There will be buffering with tree plantings." (see exhibit)



The applicant intends to have storage for supplies and materials which may be left over from a job site such as filter sock, silt fence, construction fencing, filter fabric and seed. No indication was given as to where these materials would be stored.

They are requesting to have 3 non-resident employees on the site. A waiver was requested. (This request is exclusive of the 3 non-resident employees previously approved for the adjacent office site on the adjacent parcel.)

The applicant has stated that there will be few if any deliveries.

Hours of operation will be from 7:00am to 6:00pm.

With respect to traffic, the applicant has stated that, "on a busiest day, there would be five trips into and out of the site to recover equipment.

However, it is likely those trips would be limited because the equipment will not always be utilized on a job and will remain on the jobsite on certain occasions if the jobsite is secure."

No signage is proposed.

Example equipment includes: two pickup trucks with skid loader trailers, skid steerer with attachments, and two single-axle dump trucks.



Aerial showing fill being placed on the site which later became the equipment parking and staging area.



In Kentucky, the weight limit for a commercial single axle truck is 20,000 lbs.

A review of FORD F-SERIES specifications indicate that weight of a crew cab truck is under 10,000 lbs.

A skid steerer commonly ranges from weights of 5,000 to 10,000 lbs.

Common gooseneck trailers weight around 5,000 lbs exclusive of the equipment.

Considerations:

The company website highlights the following:



ABOUT US

Organized in 2018 by, Dori Schweitzer, Andis, LLC is a certified Disadvantaged Business Enterprise (DBE) and certified Women's Business Enterprise National Council member (WBENC), providing site-solutions to companies throughout the Mid-West and beyond. Andis, LLC brings many years of experience in business management, project planning, logistics and communication, heavy equipment operation, and site supervision in the areas of recyclable metals, power plant demolition and environmental remediation, SWPPP Controls, Right-of-Way Clearing, and site access solutions; including but not limited to temporary construction entrances, access mating, and timber bridge installation.

Our company is young, but our core values combined with our dedication to providing our contractors with high quality and time efficient work, while maintaining safety standards, staying within budget, and focusing on environmental conservation within the scope of our work, pivots us to the forefront of the industry in which we serve.

The company Facebook page highlights the following:



Andis, LLC Industrial Services
Construction Company

[Send Message](#)

Servicing the Mid-West and beyond, Andis, LLC is your best choice for SWPPP Controls, Remediation Services, Access Solutions, Clearing & Grubbing, Demolition, and Hauling.



Andis, LLC Industrial Services

March 26 · 🌐

IMMEDIATE STORM CALL 🚫 OUT for tonight....

Local 71 Scale at OT Rates

Staying in Ohio

Meeting at 6:30 pm in Highland Heights, KY -or- Village Springs, OH at 7:45 pm

Possibility of Travel to PA

Organized in 2018 by, Dori Schweitzer and Arthur Toms, Andis, LLC is a certified Disadvantaged Business Enterprise (DBE) and certified Women's Business Enterprise National Council member (WBENC), providing site-solutions to companies throughout

the Mid-West and beyond. Together, Dori and Arthur, share over 30 years of combined experience in business management, project planning, logistics and communication, heavy equipment operation, and site supervision in the areas of recyclable metals, power plant demolition and environmental remediation, SWPPP Controls, Right-of-Way Clearing, and site access solutions; including but not limited to temporary construction entrances, access mating, and timber bridge installation.

Our company is young, but our core values combined with our dedication to providing our contractors with high quality and time efficient work, while maintaining safety standards, staying within budget, and focusing on environmental conservation within the scope of our work, pivots us to the forefront of the industry in which we serve.

Conditional Use Permit Request:

Article IX, Section 9.14 Conditional Uses of the Campbell County Zoning Ordinance governs the rights of the Board of Adjustment when granting a Conditional Use Permit; the determination that must be made; as well as actions to be taken if the applicant fails to comply with any conditions to an approval of the use.

To grant a Conditional Use Permit, the Board must make the following determination:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;
2. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
3. That such use will comply with any regulations and conditions in this Ordinance for such use.

The applicant has provided the following statement:

The proposed use for the purpose of storing equipment is necessary to the operation of Andis LLC. The company primarily provides services to Duke Energy. The Company pays all appropriate taxes in Campbell County by virtue of the business being located therein. The location is important because it is adjacent to the company office. It is also important that the equipment which Andis LLC desires to store is kept in a safe location. The equipment is very susceptible to theft if not secured.

The Applicants intend to install an asphalt roadway from cattle crossing to cattle crossing to reduce the dust while moving equipment into or out of the property. The Applicants will plant trees as shown on the attached aerial photo for buffering purposes.

The equipment which the Applicants seek to store on the site are two pick up trucks with skid loader trailers; a skid steerer with attachments; two single axle dump trucks. Also, the Applicants would like to store supplies which are leftover from jobsites such as filter sock; silt fence; orange construction fencing; filter fabric; and seed.

The proposed use for equipment storage will not be detrimental to the health, safety, or overall welfare of the individuals residing on Tippenhauer Road or harmful to the improvements. On the busiest day, there would be five trips into and out of the site to recover equipment. However, it is likely those trips would be limited because the equipment will not always be utilized on a job and will remain on the jobsite on certain occasions if the jobsite is secure.

It is the Applicants' position that the use does comply with the zoning ordinance.

Waiver Request(s):

In reviewing requests for a Variance and/or Waiver, the Board of Adjustment shall consider:

- A. That the requested variance/waiver arises from special existing circumstance, which does not generally apply to land in the general vicinity.
- B. That the manner in which the application of the provisions of the Zoning Ordinance would deprive the applicant of a reasonable use of the land, or would create unnecessary hardship for the applicant, or that the circumstance is the result of actions taken following the adoption of the zoning regulation from which relief is sought.
- C. That the variance will not allow unreasonable conditions of the requirements of zoning regulations and will not alter the essential character of the neighborhood.
- D. That granting the waiver/variance will not confer on the applicant any special privilege that is not conferred by this ordinance to other land, structures or buildings in the same zone.

The applicant has provided the following statement.

The proposed use for the purpose of storing equipment is necessary to the operation of Andis LLC. The company primarily provides services to Duke Energy. The Company pays all appropriate taxes in Campbell County by virtue of the business being located therein. The location is important because it is adjacent to the company office. It is also important that the equipment which Andis LLC desires to store is kept in a safe location. The equipment is very susceptible to theft if not secured.

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The proposed use for equipment storage will not be detrimental to the health, safety, or overall welfare of the individuals residing on Tippenhauer Road or harmful to the improvements. On the busiest day, there would be five trips into and out of the site to recover equipment. However, it is likely those trips would be limited because the equipment will not always be utilized on a job and will remain on the jobsite on certain occasions if the jobsite is secure.

It is the Applicants' position that the use does comply with the zoning ordinance for home-based businesses.

The waiver is needed to allow employees to access the equipment and/or materials at the Tippenhauer Road location. The waiver will permit a reasonable use of the property which is approximately 52 acres and located at the dead end of a rural road. The Applicants will be unnecessarily harmed if they cannot use the barn on the property to store equipment and materials. The use of the land for such purposes will not alter the essential character of the neighborhood. Furthermore, the Applicants will not be conferred any special privileges as other property owners on Tippenhauer Road store equipment and materials for their home-based businesses and farming activities.

Staff Comments:

We congratulate our applicant on the success of her business. We thank her and her team for their cooperation in reviewing this case. We note that the applicant has made numerous modifications to the original plan including alternative locations for the full fleets of vehicles, offsite parking for a portion of the work-crews (which reduces the number of trips and parking needs), and removal the fuel dispensing unit.

Despite these revisions, we continue to recommend that this portion of the business be transitioned to an appropriately zoned site.

The operation of a staging area for self-identified as Industrial Field Services is inconsistent with the purpose the Home-Based Business as defined in Article 9, Section 9.11 of the Zoning Ordinance: " Home occupations or a Home-Based Business is a business, profession or other economic activity conducted full- or part-time at the *principal residence of the person conducting the business*. Home-Based Businesses are frequently used as incubators during the start-up phase of the operation. Existing or new businesses which exceed the regulations of this ordinance may be deemed as ready to transition to a professional environment and are subject to action by the Planning Commission or their duly authorized representative regarding non-conformance with this Section 9.11."

We find that use with the proposed modifications continues to be inconsistent with numerous GENERAL REQUIREMENTS of Article 9, Section 9.11 including:

- a. No more than one (1) employee other than those residing on the premises shall be engaged in a Home-Based Businesses on the premises at any one point in time. - *The applicant has proposed three (3) non-resident employees to be gathering on this site daily.*
- b. The use of a structure for the Home-Based Business shall be clearly incidental and subordinate to its use for residential purposes. The Home-Based Business shall be conducted indoors. - *While the operation does co-exist with a home and farming activities, the operation is not subordinate to its use for residential purposes. The operation of the equipment exceeds that activity common to a farm.*
- c. There shall be no outdoor operations or storage of materials, products or equipment for a Home-Based Business in a residential zone. Accessory structures may be used for a Home-Based Business in the R-RE and A-1 zones but shall be limited to one (1) accessory structure per lot. - *Farm exempt modifications, as identified by Ms. Schweitzer, have been made to the barn(s) efforts to secure them with doors. The proposed plan does not clearly indicate where the equipment or materials will be stored.*
- d. No unreasonable traffic or parking shall be generated by a Home-Based Business in greater volumes, location or type than would normally be expected in a residential neighborhood. - *While the applicant has made a substantial effort to reduce the size and volume of*

equipment traffic, we find that it is in greater volumes, location or type than would normally be expected in a residential or agricultural neighborhood. The equipment type, and volume is common to a commercial or industrial site.

Tippenhauer Road is a dead-end road. The road varies in width but is consistently narrow. The speed limit is posted at 25 MPH, with numerous tight curves, blind spots, and soft shoulders.

While it would not be uncommon for a farm or residential property owner to transport a long vehicle such as a cattle trailer or recreational vehicle on a limited basis, the typical length of the trucks with trailers combined with the daily frequency as proposed for use by ANDIS LLC is in conflict with the geometry of Tippenhauer Road and presents a safety and/or property damage concern. Tippenhauer Road does not have adequate pull-offs for the length and weight of this equipment.

- e. The use shall not involve the storage or use of hazardous, toxic, flammable or explosive substances, other than types and amounts commonly found in a dwelling. – *The onsite fuel dispensing unit has been removed from the site.*
- f. No equipment or process, which creates noise, vibration, flare, fumes, odors, or electrical interference detectable to the normal senses beyond the boundary of the property shall be used in such Home-Based Business. Noise shall be limited to those typical to a residential neighborhood. – *Noise from the moving of the equipment is not typical to a residential neighborhood and interferes with the residential activities on the road. The applicant has proposed paving the gravel driveway from cattle gate to cattle gate in an effort to reduce dust and noise to the adjacent property. This plan also includes some landscaped trees.*
- g. Hours of operation, including delivery and receiving, shall be conducted in a way that is not perceptible from beyond the lot line between the hours of 10:00 p.m. and 7:00 a.m. – *Proposed hours of operation of 7:00 am to 6:00 pm are consistent with the ordinance. But we will note that the applicant, as evident by the company's Facebook page, has added emergency debris removal to the business line which expands the hours of operation.*
- h. Based upon the potential nuisances of a proposed Home-Based Business, it may be determined that a particular type, intensity, or use is unsuitable. – *The operation is not a home-based business and is of a type, intensity, or use unsuitable for an agricultural or residential zone.*

Based upon the information provided, review of the additional modifications to the business and review of the supplemental information staff does NOT recommend granting a Conditional Use Permit and the associated waiver(s) at 7947 Tippenhauer Road.

Staff Recommendation:

That the Board of Adjustment has considered the applicant's proposed modifications to the business operation; however, it upholds the opinion of the Zoning Administrator to deny the Conditional Use Permit and associated waivers for the business operations at 7947 Tippenhauer Road, Unincorporated Campbell County, KY.

Support for the Recommendation:

1. While the proposed use is a necessary part of the public utility services, the proposed use at 7947 Tippenhauer Road will not contribute to the general well-being of the neighborhood or the community;
2. The use as proposed combined with the dimensional conditions of Tippenhauer Road is found to be potentially detrimental to the safety of persons residing or working in the vicinity, and may be injurious the private property with soft shoulders along the road;
3. Although waiver(s) have been requested, the proposed use continues to be in conflict with numerous elements of Article 9, Section 9.11 Home-Based Business as outlined above.
4. Denial of this request for a Conditional Use Permit with waiver(s) will not deprive the applicant of a reasonable use of the land in an A-1 Zone. The hardship created is the result of the applicant initiating a business without properly reviewing zoning and building codes in advance of the operation.
5. Operation of construction staging for industrial services places unreasonable conditions and alters the essential character of the neighborhood with regards to traffic.
6. That granting the waiver would confer on the applicant a privilege that is not conferred by this ordinance to other land, structures or buildings in the same zone in similar environs.

Should the Board decide to grant a Conditional Use Permit with the applicable waivers staff asks that you consider the following:

- a) All construction activities on the site be required to obtain the applicable permits including: zoning, floodplain, building, plumbing and electrical permits
- b) Vehicle weight limits not exceed 10,000 lbs. and 45 ft. in length. Seasonal or emergency storage of vehicles which exceed these limits is strictly prohibited.
- c) On-site vehicle maintenance other than cleaning and incidental repairs is strictly prohibited.
- d) Licensed motor vehicles related directly or indirectly to the business be limited to four (4) vehicles on site at any time. All vehicles and trailers must be licensed in KY.
- e) Non-resident trips be limited to one-roundtrip per day, Monday through Friday.
- f) Number of non-resident employees on the site be limited to two (2) on site per day.
- g) Hours of operation be limited from 7:00 am to 6:00 pm Monday through Friday inclusive of loading and unloading.

- h) All trailers, equipment, accessories and supplies must be stored within a fully enclosed structure.
- i) No hazardous materials shall be stored on site, including fuel dispensing units.
- j) Driveway must be regularly sealed, but need not be paved to reduce dust.
- k) Speed limits for equipment on the driveway shall be posted and be limited to 10 MPH.
- l) To avoid conflict with school traffic, no vehicles with trailers shall be permitted on the road before 7:00 am and between 2:30 pm and 4:30 pm year-round.

Failure to adhere to these conditions will result in a warning to be issued by the County Police or the Zoning official. Each vehicle or incident will be considered a separate warning. If more than two warnings have been issued within a 12-month cycle or one moving violation is issued to a non-resident employee on Tippenhauer Road, the Zoning Administrator may issue a cease-and-desist for the business operation. This cease and desist may be appealed to the Board of Adjustments.

ACTION BY THE BOARD IS REQUESTED

Ms. Minter then returned the floor to the board for questions of staff. Mr. Bachman asked for clarification regarding the layout of the land, and which residence the business would be associated with. He also inquired as to whether a waiver was requested regarding the business operations occurring on the property that is not the primary residence of Ms. Schweitzer. Ms. Minter clarified that such a waiver was not part of this request.

Mr. Bachmann then called forward the applicant or their representative. Mr. Stacy Graus spoke on her behalf. Mr. Graus began by clarifying that 7897 Tippenhauer belongs to Ms. Schweitzer and in April received a waiver for 3 employees to work to work at the barn on this property. He went on to explain that the property at 7947 Tippenhauer is owned by Ms. Schweitzer as well as Mr. Schweitzer, but that Mr. Schweitzer lives on this particular property.

Mr. Graus also explained that the additional employees requested would not be working on the 7947 site, that they would be coming to the site to collect equipment to take to job sites. He also that this use was only taking place on a small portion of the property, and described the equipment storage as incidental. He explained that there are several other businesses on the road. He argued that the large equipment for farming created an environment that made this use acceptable.

He stated that they feel that Andis LLC provides a service to the community, and was not a detriment. He also reminded the board that the applicant had made modifications to their business since the original cease and desist order.

He then addressed each of the additional considerations Ms. Minter included in her presentation. Mr. Graus noted that the applicant would be agreeable to items A through L on said list. He then opened the floor to questions for the applicants from the board.

Mr. Williams inquired as to whether the applicants felt that this activity could be considered as appropriate for a residential area. There was some debate between Mr. Williams and Mr. Graus as to how the zoning ordinance should be interpreted.

Mr. Williams then asked Mr. Graus which elements of Section 9.11 of the ordinance they were requesting the board to waive. Mr. Graus insisted that despite Mr. Williams interpretation of the ordinance, the applicants did not feel that they needed any other waivers excluding the waiver for the number of employees.

There was additional discussion between the board members and Mr. Graus about how the business contributes to the neighborhood. Mr. Artie Toms noted that the company employs residents of Tippenhauer Rd.

Mr. Bachmann noted that typically when there is a large turnout at a meeting, they are generally opposed to an item. He referenced the large crowd present at the meeting in this instance, and asked how with this many neighborhood residents opposed, could this Conditional use be considered contributing.

Ricky Schweitzer explained the distance from his property to the main roads. He also gave an impassioned explanation of the work that the company does and how it is essential. He explained that the situation was complicated and involved familial issues. He cited other home-based businesses on the road, and spoke to road deterioration and signage.

Ms. Minter then read into record two letters that were received prior to the meeting. See attached.

Mr. Bachman then requested than anyone who had not yet signed up to speak and wished to do so please sign in.

The first name on the list of speakers was Artie Toms of Andis LLC. He noted concerns about prejudice. He stated that the changes visible to the property in aerial photos presented were not the responsibility of Andis. He disagreed with the public comment that considered the emergency call out portion of the business as being tree removal. He questioned the accuracy and credibility of the research done by county staff. He and his counsel then exited the room to discuss the perceived inaccuracies before presenting them to the board.

Nancy noted that she has no affiliation with anyone involved in this business. She stated that she supports the current ordinance and understands that there are other businesses in place that existed prior to the ordinance, but that the addition of more would be a detriment. She also noted that she felt that the presentation was objective. She asked that the residents not

be put in the position of monitoring Andis's actions. She also asked that personal issues be removed from consideration.

Ms. Debbie Heitker of 7982 Tippenhauer then spoke. She echoed the statements of the prior speaker. She added that since the previous meeting the actions have reduced and conditions have returned to normal in the neighborhood. She noted that there are still items stored on the outside of the structure. She expressed concern about who would be responsible for monitoring the actions of the business, and spoke about the speed of the vehicles on the road. She again stated that she was opposed.

Next to speak was Mr. Rick Keller, he noted that he has daughters who are building on the road and is worried about the safety of his grandchildren. He also called into question where the representation for the energy was, as the applicant was using that company as justification for essential service status. This concluded the list of attendees that wished to comment.

Mr. Bachmann asked the applicant and their representation if they had come to a conclusion about the perceived errors. Mr. Graus stated that there were no issues that they wished to address.

There being no comments on Facebook, Mr. Bachmann returned discussion to the board. Mr. William stated that he did not see how this business could fit in with the zoning ordinance as it pertains to home-based businesses. Mr. Bachmann concurred that the zoning ordinance is fairly generous with the types of home-based businesses it allows, but that he did not see how this business adheres. Mr. Williams then added that he did not feel that the fact that the business benefits a portion of the county elsewhere should be allowed to function at the behest of the smaller neighborhood. Additionally, he noted that he had heard no evidence that the business supports the community at all. He argued, as well that it seemed as though in this instance that the home was in fact subordinate to the business rather than the other way around as is dictated in the ordinance.

Mr. Fessler echoed the sentiment that he was unable to find a way to make an industrial business fit within an agricultural zone.

Ms. Hurley agreed with Mr. Fessler. She stated that she no way that they could make the ordinance and the business come together.

Mr. Williams made a motion for a recess, seconded by Mr. Fessler. A roll call vote found all in favor. The board adjourned for a five-minute recess.

Mr. Bachmann called the meeting back into session at 8:54. He resumed by asking for a motion. Mr. Williams made a motion to deny the application for a conditional use permit with

waivers, based on the evidence provided by staff and the testimony at the public hearing. He cited that the evidence showed that there were already 3 additional employees, and the waiver for more would be in opposition to the zoning ordinance. He added that the proposed use was not consistent with a residential area, and that the traffic associated could present as a health and safety hazard for the community. He added that there was no evidence presented to establish that the proposed location or use would contribute to the local community, and that the ordinance notes that there should be no visible evidence of the home-based business, and that was not the case with this business model. He concluded by saying that if they were to grant this request it would be in direct opposition to the zoning code.

Mr. Fessler seconded the motion. There was no additional discussion, a roll call vote found all in favor, none opposed. The request was denied and the cease and desist from the zoning administrator was upheld.

There being no old business. Ms. Minter shared the administrator's report which included note that there will be a case in July. There being nothing else to report, Mr. Williams made a motion to adjourn, seconded by Ms. Hurley. Meeting was adjourned at 9:05

Approved:

Cindy Minter
Director