

**HANCOCK COUNTY AREA PLAN COMMISSION
111 AMERICAN LEGION PLACE
GREENFIELD, IN 46140**

BOARD OF ZONING APPEALS MINUTES

DATE: SEPTEMBER 28, 2023

TIME: 6:30 P.M.

PRESENT:

**JASON FAUCETT, PRESIDENT
EVAN MATLOCK, SECRETARY
MICHAEL LONG, VICE PRESIDENT
LACEY WILLARD
SANDY CASEY
KAYLA BROOKS, DIRECTOR
HOLLIE KINKER, PLANNING ASSIST.
DARLA SMOAK, RECORDING SEC.
RHONDA COOK, ATTORNEY**

ABSENT:

The September 28, 2023, meeting of the Hancock County Area Board of Zoning Appeals was brought to order by President Mr. Faucett. Mr. Long moved to accept the previous month's minutes as received via e-mail. Ms. Casey seconded. Motion carried. Ms. Willard abstained from the voting due to her absence from the meeting.

Ms. Rhonda Cook, the Board's attorney, duly swore in all persons appearing before the Board of Zoning Appeals.

Mr. Matlock moved to adjourn. Ms. Willard seconded, and the meeting was adjourned at 9:45 p.m..

ATTEST:

ATTEST:

JASON FAUCETT, PRESIDENT

EVAN MATLOCK, SECRETARY

**HANCOCK COUNTY AREA PLAN COMMISSION
111 AMERICAN LEGION PLACE, SUITE 146
GREENFIELD, IN 46140**

BOARD OF ZONING APPEALS MINUTES

Thursday, September 28, 2023

TIME: 6:30 PM

Schleter, Kurt/ Gillihan, Toby
1323 N 300 W., Greenfield
27 - 16 - 6

Agricultural
Variance 23-2391
Buck Creek

Ms. Willard asked for a disclosure of recusal from participating in the discussion and voting, out of an abundance of caution, she said she does not have any financial conflict of interest; however, the petitioner is her direct neighbor, and she is on the transition board for Stone Ridge subdivision. Ms. Kinker presented a staff report with an unfavorable recommendation due to lack of proven necessity. Mr. Kurt Schleter was present to request a variance to exceed the 35' height limitation for an accessory structure in the A zone. Mr. Schleter presented a video presentation. He said he disagrees with staff position that the intended barn use did not meet the definition for the agricultural exemption. He said he came from a history of farmers. Mr. Schleter said he is not a production farmer, but his barn will be used for agricultural purposes. He said in his opinion, if he stores his bales of hay or his equipment used to maintain his agriculturally zoned property inside the barn it makes the barn an agricultural use and should be exempt from the height limitation. Mr. Schleter said he has no intention of storing airplane fuel inside the barn. He said airplane fuel is tested at the airport so it makes no sense to store fuel and he would not want to risk of having contaminated fuel. Mr. Schleter said he wants to build an iconic, appropriate barn for the rural area. He said he thought the County would appreciate the unique style and that it would be welcomed. He said he did not expect his neighbors to be in support of the barn because they are opposed to almost everything he does on his own property. Mr. Schleter said he could build a barn that would meet code, but it would have a flat roof and be an ugly plain warehouse like many in the Buck Creek township area. He said he did not want to build that style of building. He wanted to build a different style barn that would be something to look at and be an iconic feature to the County. Mr. Schleter said he wanted to build a more appropriate barn with an agricultural rural landscape surrounding it. He said it will be in the middle of a 70-acre field. He said the barn will not adversely affect the surrounding homes. Mr. Schleter said the Kingen Red Round barn was damaged by a storm and is currently being re-supported and it is a non-conforming structure. He said the proposed barn will not block the vision from any property in the Stone Ridge subdivision or any neighboring property. He said according to his calculations the barn would have to be 129' tall to block the vision from Mr. Yordy's property (complaining neighbor). Mr. Long asked Mr. Schleter if he intends to change the design of the building at all or if the building will be constructed as presented? Mr. Schleter answered his intentions are to construct the building as presented with the exception if a window must be moved due to a support or something else would require changes due to finalizing the plans. He said all the designing and engineering plans were stopped and put on hold when he found out a variance was required. Mr. Schleter said his intentions are to construct a barn with like to style, as presented. Ms. Donna Martin, Ms. Luann Watson, Ms. Kathy McCarter, and Mr. Durand Yordy, neighbors, were present with questions and opposed to the variance request. Ms. Martin said she has numerous questions regarding the property ownership. She asked if there was a business operating from the existing buildings. Ms. Martin said the listed owner of the property is a business named RoadRage Solutions, LLC. She asked who this company is and why are they allowed to operate in the A zone? Ms. Martin said the new addition built on the rear of the barn is large enough to accommodate a large plane and she asked why so large when he is not

allowed to store his plane onsite. Ms. Watson said limitations were adopted at the meeting when the special exception was approved for his airstrip which restrict where the airplane can be stored. She said she is concerned with the business ownership and that a business is operating from the site already. Ms. Watson said Mr. Schleiter has not provided any information that would support the need for such a tall building. Ms. Watson said the Indianapolis Airport, or the Mt. Comfort Airport's hangars are only 35' tall or under. She said the claim that the barn is for agricultural purposes is questionable because there is no agricultural operations occurring on the property. Ms. Watson said if storing one bale of straw or hay makes the barn an agricultural use then her garage is an agricultural barn. She said storing hay or straw does not make you a farmer. Ms. McCarter said Mr. Schleiter stated the barn was his retirement project, yet the property is owned by a business named RoadRage Solutions, LLC. She said many of the people who are on the property are wearing the same shirt with the same company name which should prove that employees are gathering on the site. Ms. McCarter said it appears that the employees with matching shirts are coming to the new barn addition and she is fearful that this business and more will operate from the property. She said the use of the second floor of the barn has not been identified and a barn that large could house a lot of people. Ms. McCarter said the business called Road Kill Aviation is owned by Mr. Schleiter and she asked what association and planned use does the business have to the property? Mr. Yordy, neighbor in Stone Ridge subdivision, said it is all about choices. He said Mr. Schleiter chose to request to build a barn with the extreme height of 86'. Mr. Yordy said he chose to purchase a lot in a quiet rural neighborhood not next to an airport or a barn with a height of 86'. He said he chose to build his retirement home in Hancock County. Mr. Yordy said Mr. Schleiter has not provided evidence that would prove that the height request is a necessity. He said the barn example shown by Mr. Schleiter, of the neighboring barn, is of an old existing barn that was truly part of a working farm. Mr. Yordy said Mr. Schleiter does not have a farming operation on the property. He said Mr. Schleiter said he likes tall structures, but he asked why does the barn have to be so tall? Mr. Yordy said a variance request should only be approved when a practical necessity is proven and Mr. Schleiter has not presented a need or a practical necessity, however, he has made choices. He said he chooses not to live next door to an airstrip with an enormously tall barn. Mr. Yordy said he and the other neighbors chose to build their homes in a residential area in a quiet rural setting. Mr. Schleiter said there is no business operating from the property. He said he stores equipment owned by his company RoadRage Solutions on the property to help maintain the property. Mr. Schleiter said he has many different companies registered under an LLC. He said he has several companies, Fashion Girl, LLC, Reese Pieces, LLC, RoadRage, LLC, Road Kill, LLC and Orange Goods, LLC (at one time) and a couple of other names that he can't recall. He said to protect his self and business everything is listed under an LLC. Mr. Schleiter said there is no business being conducted from the property. He said he has several employees on site helping him reseed the runway right now. Mr. Schleiter said if anyone would check RoadRage Solutions, LLC has no payroll or employees; it is a real estate holding company. He said yes, he does have a few people helping him reseed the runway because it is 19 acres, so it requires a few hands helping to do it correctly and get the grades right on the sides. Mr. Schleiter said it is a retirement project for him. He said he wishes to provide an atmosphere for his grandchild and hopefully future grandchildren that is agriculture in nature. Mr. Schleiter said his line of business is road construction and he employees more than 500 people and some of the top and best employees come from a farming background. Mr. Long asked Mr. Schleiter how he came up with the width of the building? He asked if the width was flexible? Mr. Schleiter answered the width could be flexible, but he originally wanted the building to be 100' wide by 120' long but he could not afford to building that size due to the cost of the trusses and the height would have exceeded 100' in height. He said he had no idea there was a height restriction. Mr. Matlock asked Mr. Schleiter if he talked to the local fire department about the building access in the event of an emergency? Mr. Schleiter answered he spoke

to David Sutherlin, the previous fire chief, and he did not express any concerns. Mr. Matlock said if there was an emergency there would be 4 different fire departments that would be called to the scene. Mr. Matlock said he had a conversation with the Sugar Creek fire chief. He said he thinks the proposed barn is very cool and will be something iconic to see in the County. Mr. Matlock said he is concerned about the safety and other things that may occur in the barn. He said he is a farmer with a large farm and safety is their number one concern. Mr. Matlock said the barn will be approximately 1765' from the street. He said it will take the first 3 trucks laying their lines from the barn to the street with a water tanker at the street. He said it will be about 25 to 30 minutes before the first sprinkle of water would hit the barn in the event of a fire. Mr. Matlock said the nearest fire hydrant is at 400 W & US 40, so his concern is about the safety and welfare but if barn is used strictly for storage then there is no human life involved. Mr. Schleter said he has considered talking to NineStar Connect about installing a water tower next to the barn. He said he thought that he could camouflage a water tower as a silo. Mr. Schleter said he has not talked with NineStar Connect because once he found out a variance was required everything stopped. He thought it would be great to have a silo there that has water because there are no hydrants in the area. Mr. Schleter said he will install a driveway that will easily accommodate any fire apparatus. Mr. Matlock asked will the entire barn be surrounded by gravel driveway? Mr. Schleter answered the entrance door, and the back door will have a hard surface aprons to support heavy trucks. Mr. Long moved, if approved, the conditions adopted at the last month's meeting are still adopted; 1) The structure must maintain a minimum setback as submitted on the 2023 site plan and they must respect the restricted area declared during the special exception approval in 2021; and added 2) No fuel storage allowed onsite, 3) Driveway must be installed to accommodate any size fire apparatus, and 4) Must maintain existing landscape barrier surrounding the area and cannot remove any mature trees. Mr. Faucett seconded. Motion carried. There was no further discussion. Four (4) approved and zero (0) denied.

Irving Materials, Inc.
8032 N. SR 9, Greenfield
19 - 17 - 7

Agricultural
Special Exception 23-2400
Green

Ms. Kinker presented a staff report with favorable recommendation and conditions of approval: 1) The trailer must be removed by IMI within (3) years of Special Exception approval date or if ownership of the property transfers, whichever is first; and 2) No additional temporary structures may be added to the property. Ms. Meranda Herbert, representing Irving Family and IMI, to request approval of a special exception to allow temporary office space in a portable office trailer. Ms. Herbert said she has been with IMI for over 2 years as head of construction. She said the company has outgrown the corporate office space. Ms. Herbert said the company is operating in 4 states surrounding Indiana. She said the company is hoping to find a developed site that will accommodate their needs in the County. Ms. Herbert said the Irving Family is considering keeping the existing building because they have owned the building for many years. She said a sister company may take over the use of the building when they move out. Ms. Herbert said the company was renting a trailer but then they realized they would need the space longer than anticipated so they purchased the office trailer. Ms. Herbert said they will move the trailer when no longer needed. She said they are requesting a 3-year period to allow them time to locate a site for the corporate headquarters, to do any repairs needed to the site, and to remove the trailers. Ms. Herbert said they are actively looking for a site. She said the company will remove the trailer before the lease the space to the sister company or any other company. Mr. Faucett said he has been working with his employer to move some trailers, however, it has been difficult to find a company that will move trailers. Ms. Herbert told Mr. Faucett that she could help him with moving a trailer in the future, if needed, and said that is what she specializes in. She said the company is frequently having to move a trailer from one site to another.

Ms. Herbert said there is a restroom inside the trailer, but it is not used for a restroom; it is being used as closet storage space. Mr. Faucett asked for remonstrators, and none were present. Ms. Willard moved the trailer must be removed by IMI within 3 years from date of the approval or if there is a change in ownership or establishment of a new corporate headquarters, whichever is first, and no additional temporary structures may be added to the property. Mr. Long seconded. Motion carried. There was no further discussion. Five (5) approved and zero (0) denied.

Mt. Comfort Church
2265 West US 40, Greenfield
3 - 15 - 6

Commercial Neighborhood
Variance 23-2414
Sugar Creek

Ms. Casey asked for a disclosure of recusal from participating in the discussion and voting, out of an abundance of caution, she said she does not have any financial conflict of interest; however, she is a member of the church. Ms. Kinker presented a staff report with unfavorable recommendation and conditions of approval: 1) Proposed fencing and a landscaping plan approved by the Planning Director, 2) Containers must be removed if/when the use is abandoned; or 3) Should the containers create a public nuisance, the BZA reserves the right to revoke the variance. Mr. Bill Niemier, attorney, along with Pastor Matt Maple, were present request approval of a variance to allow shipping containers to be used by the residents of the Comfort House while they are trying to rebuild their lives. Mr. Niemier said the Comfort House is operating under a grant from the County Community Foundation, donations and contributions from local people and businesses, and funding from the Mount Comfort Church. He said the church saw a need in the County, and they had an empty parsonage, so they converted the parsonage to a two-family dwelling that offers safe harbor for persons who have lost everything in a fire or other catastrophe. Pastor Maple said the Comfort House provides comfort, safety and dignity to the people who oftentimes has nothing more than the shirt on their backs. He said the containers were purchased to store construction supplies but they realized that the people would need a place to store items as they start to rebuild their homes and lives. Pastor Maple said the unique idea behind the containers is they will be used while the family is living in the home as a shed, then when they move to their new place they can take the shipping container to the new location with their goods to simply unload. He said the container will be brought back to the Comfort House for the next tenant to use. Mr. Niemier said the shipping containers will not be the typical accessory sheds because they will follow the tenant to the new location with the household goods so no renting of a U-Haul will be required. He said a permanent structure would not allow the goods to be easily transported. Mr. Niemier said landscaping will prevent the shipping containers from being moved around. He said they agree to install a wood privacy fence on the SW corner of the area where containers will be parked. Pastor Maple said they will use a forklift to move around the containers so they do not want to install plants or trees that will restrict movement. Mr. Niemier said he mailed out 42 letters and he received 3 phone calls in support of the project. Mr. Faucett asked for remonstrators, and none were present. Ms. Willard asked was the terms of the grant from the Community Foundation a lump sum or ongoing funding? Pastor Maple answered the grant was a lump sum payment through the ARPA Program. He said the grant was \$249,000 payment. Ms. Willard asked if they would only have the 3 shipping containers? Pastor Maple answered yes. He said the house is completely furnished so as the family starts to gather items to rebuild their lives they will have a place to store the items while they figure out how to move on. Ms. Willard moved, if approved, the petitioner must comply with the following conditions: 1) Limited to 3 shipping containers on site, 2) When the Comfort House Program use is abandoned the shipping containers must be removed, and 3) The petitioner must install a wood fence, as presented; and as proposed. Mr. Long seconded. Motion carried. There was no further discussion. Four (4) approved and zero (0) denied.

Federici, Taylor James
98 S. 200 West, Greenfield
3 - 15 - 6

Commercial Regional
Special Exception 23-2415
Sugar Creek

Ms. Kinker presented a staff report with favorable recommendation and conditions of approval: 1) Septic system concerns/ updates? Recommend the petitioner meet with Environmental Health Department; 2) Project must go through Technical Committee to address potential concerns of Health (septic?), Highway (driveway), Surveyor (drainage), Auditor, Public Safety and Extension office; 3) No outside storage of equipment and materials as indicated in zoning; and 4) Landscaping, buffering, parking, and lighting in conformance with the county's developmental standards. Mr. Taylor Federici was present to request approval of a special exception to allow a contractor's warehouse in the CR zone. Mr. Federici said he operates in Greenfield currently and he would like to expand his business to this location. He said the site has been abandoned for years so he would like to bring life back to the area. He said he would like the driving surface to remain gravel, or he will have to dig a pond for the water run-off. Mr. Federici said he plans to build a 60' by 80' warehouse to house all his equipment. He said he does not plan to remove any mature trees and will install a hard surface apron on the building. Mr. Faucett said a variance would be necessary if hard surface is not installed. He said code requires all parking areas, including the entrance, be hard surface. Mr. Federici said he planned to install a mound and landscaping at the entrance to give a nice looking front. He said he plans to install fencing along the perimeter, however, not out front. Mr. Federici said he agrees to not have any outdoor storage. He said he agrees to install hard surface up to the face of the building to the street for employee parking, if necessary. Mr. Matlock said the property is the old railroad bed and it would be a difficult area to install a septic system or to dig a pond for the water run-off. Mr. Federici said he may have to install an above ground tank for the septic waste and when full pump and haul the waste off, but he will have to work with the county and state health departments. Mr. Long said the property may be within the highway corridor overlay. Ms. Virginia Black, neighbor directly to the south, was present with questions. Ms. Black said her grandfather owned the property for many years until the Pennsylvania Railroad came and took the property. She said the property has been used for storage of old semi-trucks and trailers and an old mobile office. Ms. Black said the property has recently been improved in preparations for the contractor's warehouse. She said she is concerned about the noise that will emit from the equipment used on the property. Ms. Black said she does not want to see a lot of traffic coming and going from the site. She said she spent a large amount of money on a new septic system for the home in the past year and she is concerned about how the business operating there will affect the septic system. She said the property is the old railroad bed, so it is elevated above her property, so any water run-off comes to her property on the south. Ms. Black said she would like to see the property become useful and be cleaned up. She said she would like to be assured that the mature trees on the property line will remain and to have a landscaping buffer yard installed to mitigate the sounds and dust emitting from the operation. Mr. Federici said he wants to be a good neighbor and will commit to keeping the mature trees and install the required landscaping. He said he wants to be a good neighbor and continue to upgrade the property. Mr. Federici said he has 10 employees that will come to the site on Sunday evening or Monday morning for their equipment and job orders and will not return to the site until Friday to return the equipment and trucks. He said there will not be any late-night operations on the site and there is not a lot of traffic. Mr. Federici said he will work from the site, and he will come to the site in the morning and leave in the evening. Mr. Faucett asked what type of equipment will be operated on the site? Mr. Federici answered small equipment like; skid steers or excavators or dump trucks; will be used on site. He said he has turned off the back up horns on all his vehicles and equipment so that the beeping will not disturb the neighbors. Mr. Federici said he grew up on 100 South not far from the site and he has driven by the property daily for years and it has always been a junky mess. He said he purchased

the property to bring the property back to life and clean it up. Ms. Brooks pointed out that on the county trails plan, this property is marked for the Pennsy trail. Ms. Casey said she saw the trails plan and believes the trail jumps back up to run alongside US 40 from 300 West to 150 West. Mr. Long moved if approved the petitioner must comply with the following conditions of approval: 1) The owner shall seek and obtain an improvement location permit (ILP) for the change of use. The application for the ILP shall include the following: A) Site plan depicting the location of the warehouse building, parking areas and driveways, B) State construction design release for the proposed warehouse building, C) Driveway permits for all proposed driveways, and D) Landscaping, buffering, parking, and lighting in conformance with the county's development standards. Documentation of existing trees and vegetation may be counted toward meeting the landscape and buffer yard requirements. All existing trees along the property boundary with a minimum two-inch diameter trunk (measured at chest height) shall be replaced in accordance with the county's landscape standards, 2) The BZA reserves the right to modify or revoke the special exception at a public hearing if it determines that the business constitutes a public nuisance, 3) The special exception shall automatically expire after 12 months unless all required county permits relating to the change of use have been approved, and 4) The special exception shall be limited to, and run with, the current owner and shall not be transferrable to any other person or entity. Mr. Matlock seconded. Motion carried. There was no further discussion. Five (5) approved and zero (0) denied.

Hoppes, Dennis
8493 E. 200 S, Greenfield
16 - 15 - 8

Agricultural
Variance 23-2416
Blue River

Ms. Kinker said the petition must be continued due to improper advertising. Ms. Willard moved to continue the petition to the October 26, 2023 meeting. Ms. Casey seconded. Motion carried. Continued to October 26, 2023, due to improper advertising.

Couch, Richard & Peggy
3579 S. 100 E., Greenfield
20 - 15 - 7

Agricultural
Variance 23-2419
Brandywine

Ms. Kinker presented a staff report with favorable recommendation. Ms. Peggy Couch was present to request approval of a variance to allow an accessory building to remain in the front yard in front of the house when the new house is constructed. Ms. Couch said they are wanting to replace the old farmhouse that is very close to the road. She said there have been numerous accidents in front of the house with a couple of fatalities. Ms. Couch said the barn was built in 1907 so it has historical value. She said the house was built in 1910 and several years later the front of the house and barn was added onto. Ms. Couch said the house needs many repairs so they felt that a new home would serve them better. She said after the last accident they decided to build a home back on the lot to meet the current requirements. Ms. Couch said the barn is used for their livestock and has been maintained over the years. She said the barn was re-roofed in 2018 and farm equipment is stored in the barn in addition to livestock. Mr. Faucett asked for remonstrators, and none were present. Mr. Long said it's nice to see the barn being maintained and used daily. There was no further discussion. Five (5) approved and zero (0) denied.

WIT Properties LLC/ Drainage
1483 W. US 40., Greenfield
2 - 15 - 6

Commercial Community
Special Exception 23-2420
Center

Ms. Kinker presented a staff report with favorable recommendation and conditions of approval: 1) Petitioner will need to file for a change of use permit; 2) Landscaping, buffering, parking, signage,

and lighting in conformance with the county's development standards; 3) Project must go through Technical Committee to address any concerns of Health (septic?), Highway (driveway), Surveyor (drainage), Auditor, Public Safety and Extension office; or 4) Outdoor storage must be located behind proposed structure with adequate screening in conformance with the county's developmental standards. Mr. Briane House, attorney representing Drainage Solutions, along with Mr. Terry Noriega, President, and Mr. Jeremiah Jacks, Vice President, to request approval of a special exception to allow a building supply yard in the CC zone. Mr. House said a local business plans to move their headquarters to this location. He said Drainage Solutions operates in Lebanon, Leesburg, Franklin, and Greenfield. He said they plan to use the existing 70' by 100' pole barn/ warehouse that was permitted in 2022 for personal use only, cannot be used for a business. Mr. House said they plan to build a very nice approximately 6,000 square foot store front building in the front area where the existing house will be torn down. He said many improvements have been made to the property with two old barns torn down and the new pole barn built. Mr. House said the outdoor storage will be fenced and landscaped. Mr. Noriega said they think this location will be perfect for their planned expansion. He said the existing barn will be large enough to allow many of their items to be stored in the building. Mr. Noriega said the outdoor items will be neatly lined up and organized. He said when they decided to expand their business they started looking locally to stay close to home. Mr. Noriega said they consider themselves hometown boys and they want to serve the people in their hometown. He said they have been in business for over 25 years. Mr. Noriega said the outdoor storage areas will have gravel access drives. He said their other locations are neat and clean looking and it is very important to them to have a nice-looking facility. Mr. Faucett asked for remonstrators, and none were present. Mr. Long said the typical conditions of approval would apply; 1) The owner shall seek and obtain an improvement location permit (ILP) for the change of use. The application for the ILP shall include the following: A) Site plan depicting the location of the warehouse building, parking areas and driveways, B) State construction design release for the proposed warehouse building, C) Driveway permits for all proposed driveways; and D) Landscaping, buffering, parking, and lighting in conformance with the county's development standards. Documentation of existing trees and vegetation may be counted toward meeting the landscape and buffer yard requirements. All existing trees along the property boundary with a minimum two-inch diameter trunk (measured at chest height) shall be replaced in accordance with the county's landscape standards, 2) The BZA reserves the right to modify or revoke the special exception at a public hearing if it determines that the business constitutes a public nuisance, 3) The special exception shall automatically expire after 12 months unless all required county permits relating to the change of use have been approved, 4) The special exception shall be limited to, and run with, the current owner and shall not be transferrable to any other person or entity Mr. House said he would agree with the proposed conditions with the exception of the condition that restricts the transfer of the special exception approval to an affiliate. Ms. Willard said the board does not wish to stifle a business and restrict the transfer to an affiliate, assignee or a major control holder or current owners with the core use not changing but the condition would limit the transfer of the property to a stranger. Mr. House suggested the following revision to condition #4) The special exception shall be limited to, and run with, the current petitioner or an assignee or affiliate of owner, and in which owner has and maintains a controlling interest. Otherwise, the special exception shall not be transferrable to any other petitioner, person or entity, Mr. Long moved, if approved, the petitioner must comply with staff conditions of approval with condition #4 revised as suggested by Mr. House. Ms. Willard seconded. Motion carried. There was no further discussion. Five (5) approved and zero (0) denied.

OTHER BUSINESS: NONE