

A G E N D A
ALLEN COUNTY BOARD OF ZONING APPEALS

Board Members: Ken Neumeister, Jacob Delagrange, Thomas C. Black, Charles J. Bodenhafer, Matt Blair

The Board of Zoning Appeals will conduct a public hearing in Room #126, 1st floor, City County Building, One East Main Street, Fort Wayne, Indiana on Wednesday, July 15, 2009 at 1:00 p.m.

Old Business

1. Case No.: Variance 2882/09 p..2
Applicant: Daniel O'Brien
Location: 6613 Goshen Road (US 33)
Appeal: To establish a lighting and maintenance service business.

2. Case No.: Variance 2878/09 p..6
Applicant: Ted Garvin
Location: 6022 Adams Center Road
Appeal: To operate a fiberglass business.

New Business

1. Case No.: Special Exception 2588/09 p..10
Applicant: Ted Garvin
Location: 6022 Adams Center Road
Appeal: To establish a home workshop for a fiberglass business.

2. Case No.: Variance 2892/09 p..14
Applicant: Benjamin Graber
Location: 13428 Springfield Center Road
Appeal: To reestablish and expand Variance 2630/04 permitting general storage, and roofing and siding processing activities.

Allen County Board of Zoning Appeals Staff Report

(Continued from May 2009)

Case Number: Variance 2882/09

July 15, 2009

Request: To establish a lighting and maintenance service business.

Location: 6613 Goshen Road (US 33)



Applicant: Daniel O'Brien

Property Owner: Daniel O'Brien

Legal Description: See File

Size of Property: 1.43 acres

Applicable Ordinance Section(s):

- 3-14-1-2 (a)(2)

Notified:

- 7 Neighboring Property Owners
- No active neighborhood associations

Adjacent Land Uses:

- North – Agricultural
- South – Residential and Agricultural
- East – Residential and Agricultural
- West – Residential and Agricultural

Reason for Request:

The applicants would like approval for a lighting and maintenance service business.

B.Z.A. History:

Case Number VAR 1265/85. To establish a used car and truck sales lot. Approved.

Case Number VAR 1317/85. To permit a used-truck sales lot. Approved.

Case Number VAR 1406/86. To renew VAR 1317/85 for a used-truck sales lot. Approved.

Case Number VAR 1542/88. To expand VAR 1406/86 to allow for custom work on trucks, farm tractors and autos. Approved.

Case Number VAR 1821/91. To renew VAR 1542/88 which permitted custom work on trucks, farm tractors and automobiles in an existing home workshop permitted the sale of used vehicles. Approved.

Comprehensive Plan:

Guiding Principle No. 6 in the Comprehensive Plan states that “Development contiguous to urban areas should be encouraged and organized as commercial centers and neighborhoods, integrated *with the existing pattern*. Land Use Objective LU10.E is to “Encourage infill development and redevelopment *which is compatible with the character of existing development*.” The Economic Development Goal of the Comprehensive Plan is “A vibrant and diverse economy that balances existing business growth and new business attraction in a manner that produces secure, well-paying jobs, provides infrastructure improvements needed for economic development, promotes downtown revitalization, fosters operational efficiencies and increases utilization of the airports. Objective ED1 is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.” As the continuation of an existing business site, the request may be consistent with the economic development goals and objectives of the Comprehensive Plan.

The previously approved use of the property was reportedly less intense than the business service use operations presently in operation on the site. However, this and the surrounding properties are zoned for agriculture with allowed single family residential use. If approved, conditions should be placed that would 1) limit commercial intensity to no more or even less than the level requested, and 2) prevent any substantial changes that would jeopardize the integrity of the surrounding properties for single family residential or agricultural use.

Staff Discussion:

The applicant, Daniel O’Brien, is requesting a use variance for a lighting and maintenance service business. A use variance is required in order to operate this type of business at this location as this is not a permitted use in an A-1 agricultural zoning district, nor available as a special exception.

The property, located on the south side of US 33, the site consists of three different parcels that have a total acreage of 2.58 acres that includes a commercial-style building, a residential home, a smaller barn and a larger barn that is falling down. There is gravel parking. There is a wooded area to the south that provides some buffering. The property includes a free-standing sign along US 33 as well as 16 square foot fascia sign on the office/warehouse building.

The property has had history of prior Board of Zoning Appeals approval from 1985-1991 that allowed custom work on trucks, farm tractors and automobiles as well as the sales of used vehicles. The current property owner, Mr. O’Brien, would like approval for his lighting and maintenance service business. Mr. O’Brien states in his application that the only traffic to and from the property is that of his employees and that there is no client traffic. According to the applicant all work is done off-site at other commercial locations.

The legal tests for approval of this use variance are:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

Staff has received a complaint about the operation of this business. This business has been operating for an unknown amount of time without Board approval. At the time of the site visit there was a large older barn in very poor condition, and unlicensed service vehicle parked in the yard, and a pile of debris. If approved, conditions limiting the intensity of operation may be appropriate, particularly in terms of outdoor storage of company vehicles and truck movement.

Suggested Conditions of Approval:

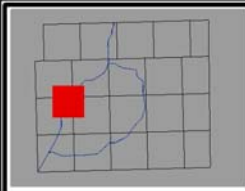
Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to use variance approvals:

1. Approval shall run for 1 year, subject to renewal, unless notified by the Zoning Administrator of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this variance shall run with the applicant and no the real estate.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ZHO or any successor agency.
4. Signage shall be limited to one 16 square foot maximum fascia sign on the office/warehouse building and one 6 square foot maximum free-standing sign at the front of the property. This sign may be no closer than 5 feet to the right-of-way line.
5. The site shall be kept free of any and all refuse, debris, inoperable vehicles, and junk at all times.
6. Approval from all applicable local, state, and federal agencies shall be required.
7. Hours of operation shall be limited to 7:00 a.m. to 4:00 p.m., Monday through Friday with no hours on Saturday or Sunday.
8. Employment shall be limited to nine employees, including the applicant.
9. Exterior lighting shall not be permitted.
10. Expansion beyond the 1,855 square foot building, parking lot area, as shown on the applicant site plan, shall require Board approval.
11. Outside storage of vehicles and parking of service vehicles shall be limited to the east side of the office/warehouse building. Such storage shall be only on an improved surface, and shall be screened on all sides.
12. The applicant shall submit a landscape plan within 30 days that includes screening of the service vehicle parking and storage area. All approved landscaping and/or fencing shall be installed within 60 days. The applicant shall maintain all landscaping improvements in good and healthy condition. Maintenance shall include seeding, watering and mowing of grassy areas, proper care of all trees and planting, and the re-seeding and replanting of any dead landscape materials. All plant materials that do not survive shall be replaced within one year or by the next planting period, which ever occurs first. All fencing shall be kept in good repair.
13. The Board of Zoning Appeals hereby grants the Allen county Zoning Administrator or her/his designated staff authority upon written request to consider an extension of any Board approved condition, except condition 1, for a period not to exceed six months.

July 2009 Staff Update:

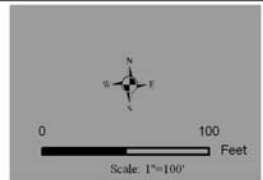
The Board continued the case to allow the applicant time to prepare and submit a plan for screening the property. To date, staff has not received any new information. Staff does note that there was a fire at the property shortly after the public hearing that involved the dilapidated barn but otherwise site conditions remain similar to that at the time of the May public hearing.

Notes:



Variance 2882/09

Printed: June 30, 2009
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 North American Datum 1983
 State Plane Coordinate System, Indiana East
 Photos: Spring 2006 / Octobers: 1999



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Allen County Board of Zoning Appeals Staff Report

(Continued from June 2009)

Case Number: Variance 2878/09

June 17, 2009

Request: To operate a fiberglass business.

Location: 6022 Adams Center Road



Applicant: Ted Garvin

Property Owner: Ted Garvin

Legal Description: See File

Size of Property: 3.46 acres

Applicable Ordinance Section(s):

- 3-14-1-2 (a)(3)

Notified:

- 7 Neighboring Property Owners
- Neighborhood association contact unknown

Adjacent Land Uses:

North – Residential
South – Residential
East – Agricultural
West – Residential

Reason for Request:

The applicants would like approval for a fiberglass business.

B.Z.A. History:

None prior to this request.

Comprehensive Plan:

Objective LU11 is to “Maintain the quality of agricultural operations by minimizing urban, suburban and rural conflicts.” If approved, conditions should be placed that would ensure continued compatibility of the use with the surrounding area.

Staff Discussion:

The applicant is requesting a use variance for a fiberglass business. A use variance is required for this type of business in an RS-1 zoning district.

The application file is not specific on the type of fiberglass activities the applicant is seeking permission to perform. According to the file, Mr. Garvin, has been operating this business from a barn for approximately 9 years. Our office received a complaint about the business and notified Mr. Garvin that the operation was not a permitted use in the RS-1/Suburban Residential zoning district.

The property is located on the west side of Adams Center Road, south of Paulding Road. The property includes a free-standing approximate 3,400 square foot metal building and exterior storage of a few trailers. Requested hours of operation are Monday through Friday (no specific hours of operation listed). Seven employees, including the applicant are requested. Exterior lights building mounted over the doors are requested. Exterior storage of approximately 1,000 square feet is listed on the application. Signage is not proposed.

The barn from which the business operates is located on a separate but adjacent parcel than the residence for Mr. Garvin. If these properties were combined, then this business operation would likely be eligible for application as a special exception home workshop. The legal tests for the special exception would not require the findings for a hardship in the use of the property, which can difficult for the applicant to make a case for an approximate 3.5 acre parcel with a structure currently located on the property. Staff has concerns that a finding of hardship for such a situation could set precedent for future applications to the Board. Additionally, the applicant has the option of combining the parcels and eliminating the need for the hardship finding required for the use variance approval.

The legal tests for approval of this use variance are:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

Staff would prefer to see this application as a special exception home workshop before the Board. The Board may want to ask the applicant about the reluctance to combine the parcels and apply for this business as a special exception, typical noise, type of business activities, hours of operation, items stored outside and location for the exterior storage, typical traffic, and the unnecessary hardship applied to the property if the Board does not grant the use variance.

Suggested Conditions of Approval:

Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to use varaince approvals:

1. Approval shall run for 1 year, subject to renewal, unless notified by the Zoning Administrator of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this variance shall run with the applicant and no the real estate.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable

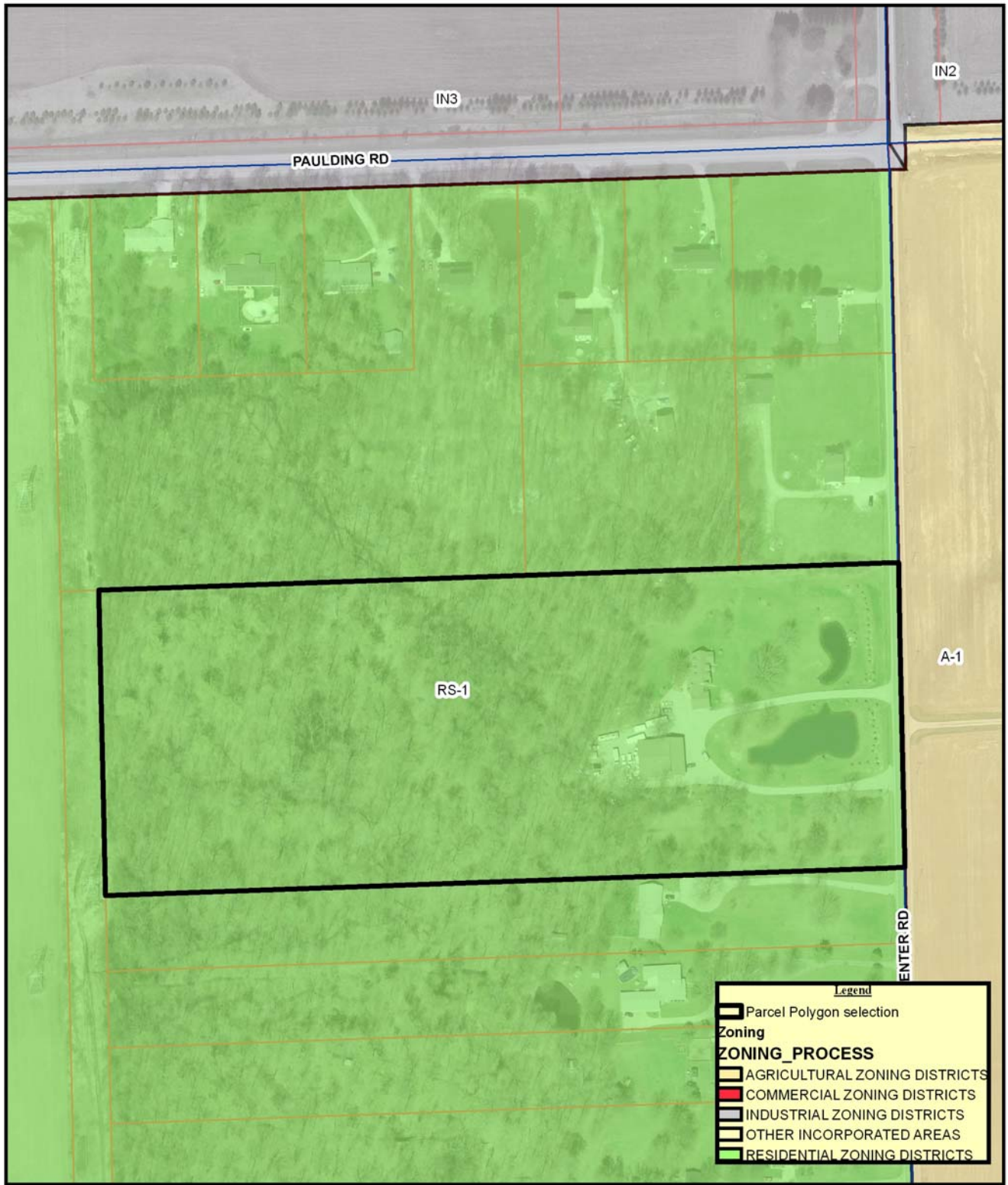
action (including new findings of fact/law and conditions of approval) by the Board/ZHO or any successor agency.

4. Signage shall be prohibited.
5. The site shall be kept free of any and all refuse, debris, and junk at all times.
6. Approval from all applicable local, state, and federal agencies shall be required.
7. Hours of operation shall be limited to _____, Monday through Friday.
8. Employment shall be limited to seven employees, including the applicant.
9. Exterior lighting shall be limited building mounted lights on the west side that are downward directed. Lighting shall not extend beyond property lines.
10. Expansion beyond the 3,360 square foot building, 1,000 square foot exterior storage area located _____, and parking lot area, as shown on the applicant site plan, shall require Board approval.
11. Outside storage and display shall be limited to _____, shall be limited to _____, and shall be screened.
12. Business activities are limited to _____.

July 2009 Staff Update:

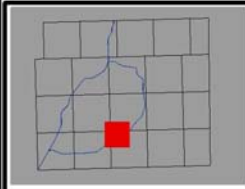
At the July public hearing the applicant indicated that he had combined tax parcels and was willing to consider applying for a special exception for a home workshop. The Board continued the case to allow this option to be explored. The applicant has combined the parcels and applied for the special exception through case number SE 2588/09.

Notes:



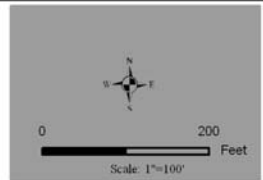
Legend

- Parcel Polygon selection
- Zoning**
- ZONING_PROCESS**
- AGRICULTURAL ZONING DISTRICTS
- COMMERCIAL ZONING DISTRICTS
- INDUSTRIAL ZONING DISTRICTS
- OTHER INCORPORATED AREAS
- RESIDENTIAL ZONING DISTRICTS



Variance 2878/09

Printed: May 27, 2009
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 Photos: Spring 2006 / Outdoors: 1999



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Allen County Board of Zoning Appeals Staff Report

Case Number: Special Exception 2588/09

July 15, 2009

Request: To establish a home workshop for a fiberglass business.

Location: 6022 Adams Center Road



Applicant: Ted Garvin

Property Owner: Ted Garvin

Legal Description: See File

Size of Property: 3.46 acres

Applicable Ordinance Section(s):

- 3-5-2-24

Notified:

- 7 Neighboring Property Owners
- Neighborhood association contact unknown

Adjacent Land Uses:

North – Residential
South – Residential
East – Agricultural
West – Residential

Reason for Request:

The applicants would like approval for a fiberglass business.

B.Z.A. History:

Variance 2878/09. A use variance request to operate a fiberglass business. Pending.

Comprehensive Plan:

Objective LU11 is to “Maintain the quality of agricultural operations by minimizing urban, suburban and rural conflicts.” If approved, conditions should be placed that would ensure continued compatibility of the use with the surrounding area.

Staff Discussion:

The applicant is requesting a home workshop for a fiberglass business. The original application was filed as a use variance because the applicant’s residence was on a separate parcel. The Board continued the public hearing for Variance 2878/09 last month to give the applicant an opportunity to combine parcels and apply for a special exception home workshop for the fiberglass business. **Staff confirmed that the residential property has been combined with the business barn property with the Allen County Auditor’s Office.**

According to the file, Mr. Garvin, has been operating this business from a barn for approximately 9 years. Our office received a complaint about the business and notified Mr. Garvin that the operation was not a permitted use in the RS-1/Suburban Residential zoning district.

The property is located on the west side of Adams Center Road, south of Paulding Road. The property includes a free-standing approximate 3,400 square foot metal building and exterior storage of a few trailers. The applicant stated that he would use approximately 1,800 square feet for business activities. Requested hours of operation are Monday through Friday 7 a.m. to 5 p.m. Seven employees, including the applicant are requested. Exterior lights building mounted over the doors are requested. Exterior storage of approximately 1,000 square feet is listed on the application. There is employee parking of up to seven vehicles behind the barn during business hours. Signage is not proposed.

The legal tests for approval of this special exception are:

1. The public convenience and welfare will be substantially served.
2. The proposed use will not be unduly detrimental to the surrounding area.
3. The proposed use does not have an adverse impact on the character or use of nearby land uses existing at the time of application.
4. The proposed use will not adversely influence the future development of nearby land for the uses which are permitted under the current zoning classification.

The Board may want to ask the applicant about typical noise, type of business activities, confirm hours of operation, items stored outside and location for the exterior storage, and typical traffic.

Suggested Conditions of Approval:

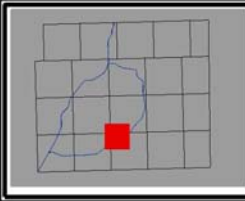
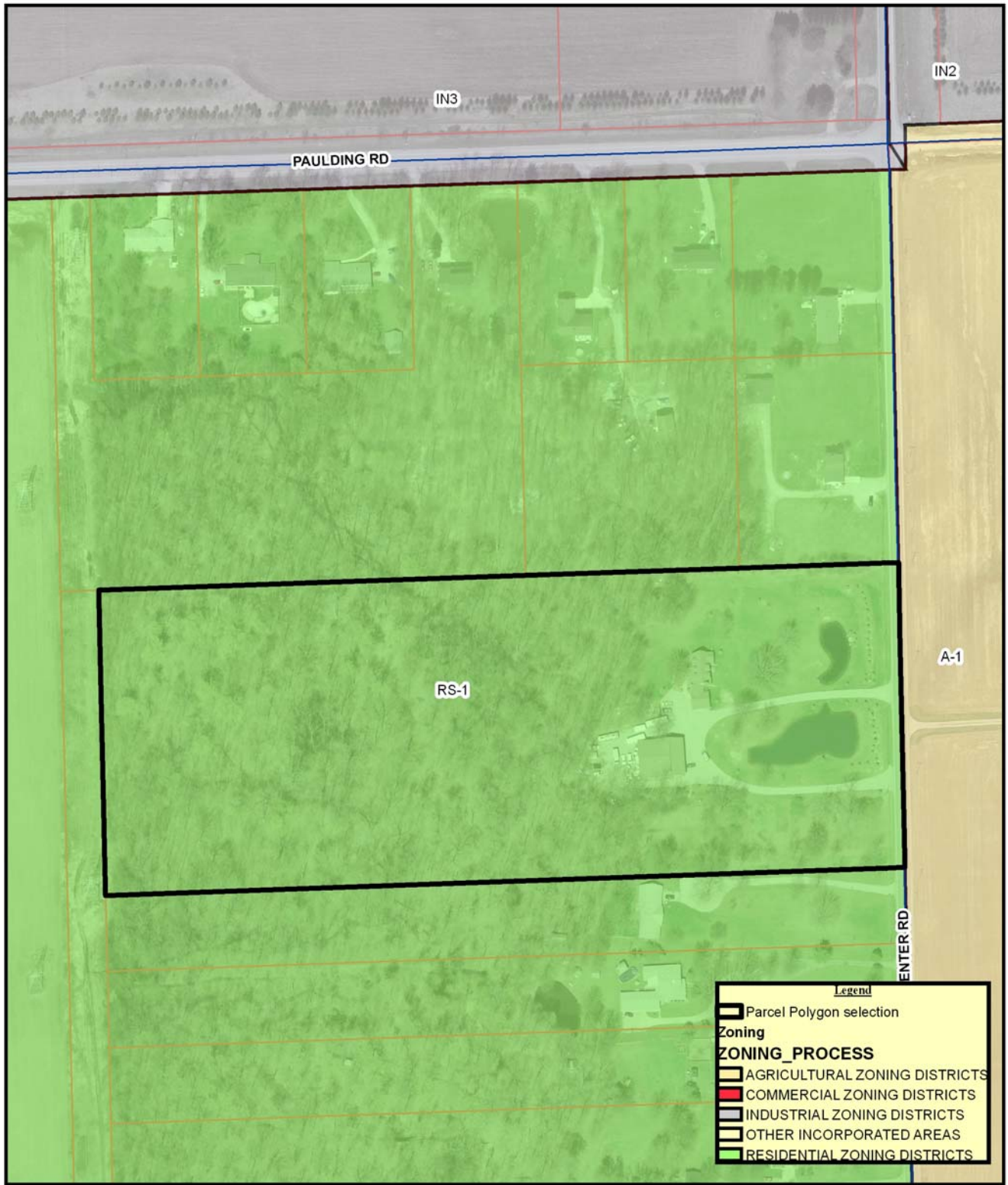
Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to special exception home workshop approvals:

1. Approval shall run for 1 year, subject to renewal, unless notified by the Zoning Administrator of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this variance shall run with the applicant and not the real estate.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ZHO or any successor agency.
4. Signage shall be prohibited.
5. The site shall be kept free of any and all refuse, debris, and junk at all times.
6. Approval and permits from all applicable local, state, and federal agencies shall be required.
7. Hours of operation shall be limited to 7 a.m. to 5 p.m., Monday through Friday.
8. Employment shall be limited to seven employees, including the applicant.
9. Exterior lighting shall be limited building mounted lights on the west side that are downward directed.

Lighting shall not extend beyond property lines.

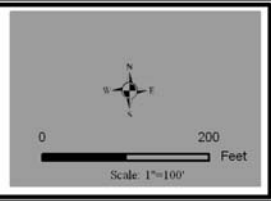
10. Expansion beyond 1,800 square feet within the existing 3,360 square foot building, 1,000 square foot exterior storage area and employee parking lot area both on the west side of the building, as shown on the applicant site plan, shall require Board approval.
11. Outside storage shall be limited to supplies and products directly related to the fiberglass repair business and shall be screened.
12. Business activities are limited to repair, restoration, and fabrication of fiberglass articles.

Notes:



Variance 2878/09

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 State Plane Coordinate System, Indiana East
 Photos: Spring 2006 / Outdoors: 1999



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Allen County Board of Zoning Appeals Staff Report

Case Number: Variance 2892/09

July 15, 2009

Request: To reestablish and expand Variance 2630/04 permitting general storage, and roofing and siding processing activities.

Location: 13428 Springfield Center Road



Applicant: Benjamin Graber

Property Owner: Benjamin Graber

Legal Description: See File

Size of Property: 6.54 acres

Applicable Ordinance Section(s):

- 3-14-1-2 (a)(3)

Notified:

- 3 Neighboring Property Owners
- No active neighborhood associations

Adjacent Land Uses:

- North – Agricultural
- South – Agricultural
- East – Agricultural
- West – Agricultural

Reason for Request:

The applicant would like approval to reestablish and expand Variance 2630/04 permitting general storage, and roofing and siding process activities.

B.Z.A. History:

Case Number VAR 1172/84. To allow a reduction to 45 feet for a front yard setback permitting a 24 foot by 20 foot emergency generator station. Approved.

Case Number VAR 1359/86. To allow a reduction to 54 feet for a front yard setback permitting a mobile home. Approved.

Case Number VAR 2460/01. To establish a general business storage facility. Approved.

Case Number VAR 2618/03. To renew approval of a general business storage facility. Approved.

Case Number VAR 2630/04. To amend Variance 2618/03 permitting general storage to include roofing and siding processing activities. Approved.

Comprehensive Plan:

Objective ED1 of the Comprehensive Plan is to “Plan, invest and develop competitive locations and sites for existing business expansion, new business attraction and entrepreneurial development.

Given the existing buildings on the property, history of Board approvals, and type of manufacturing and storage uses, it is probably not in conflict with the Comprehensive Plan. If approved, conditions should be placed that would ensure continued compatibility of the use with the surrounding area.

Staff Discussion:

The applicant is requesting to renew, reestablish, and expand a storage facility and roofing and siding processing business. The applicant did not file for a renewal at the end of the six month approval. The applicant is asking for an expansion to this renewal to include structure demolition and rebuilding that has occurred and is planned in the upcoming years.

The applicant was first approved for a use variance in 2003 for only a storage facility within the existing 9 buildings totaling 60,000 square feet. The expansion to add roofing and siding processing was granted by the Board in 2004 for six months. Other than the structure demolition and rebuilding a request for two additional employees is the only other change to conditions requested that Staff is aware of at the time of notebook printing.

The property is located on the south side of Springfield Center Road, east of Page Road. The site tour revealed a property with multiple large buildings, a white semi trailer parked close to Springfield Center Road, freestanding sign, a dumpster with metal scraps and pile of metal pieces, and a few miscellaneous trailers. This site is surrounded by predominately a mix of agricultural and rural residential land uses.

The legal tests for approval of this use variance are:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

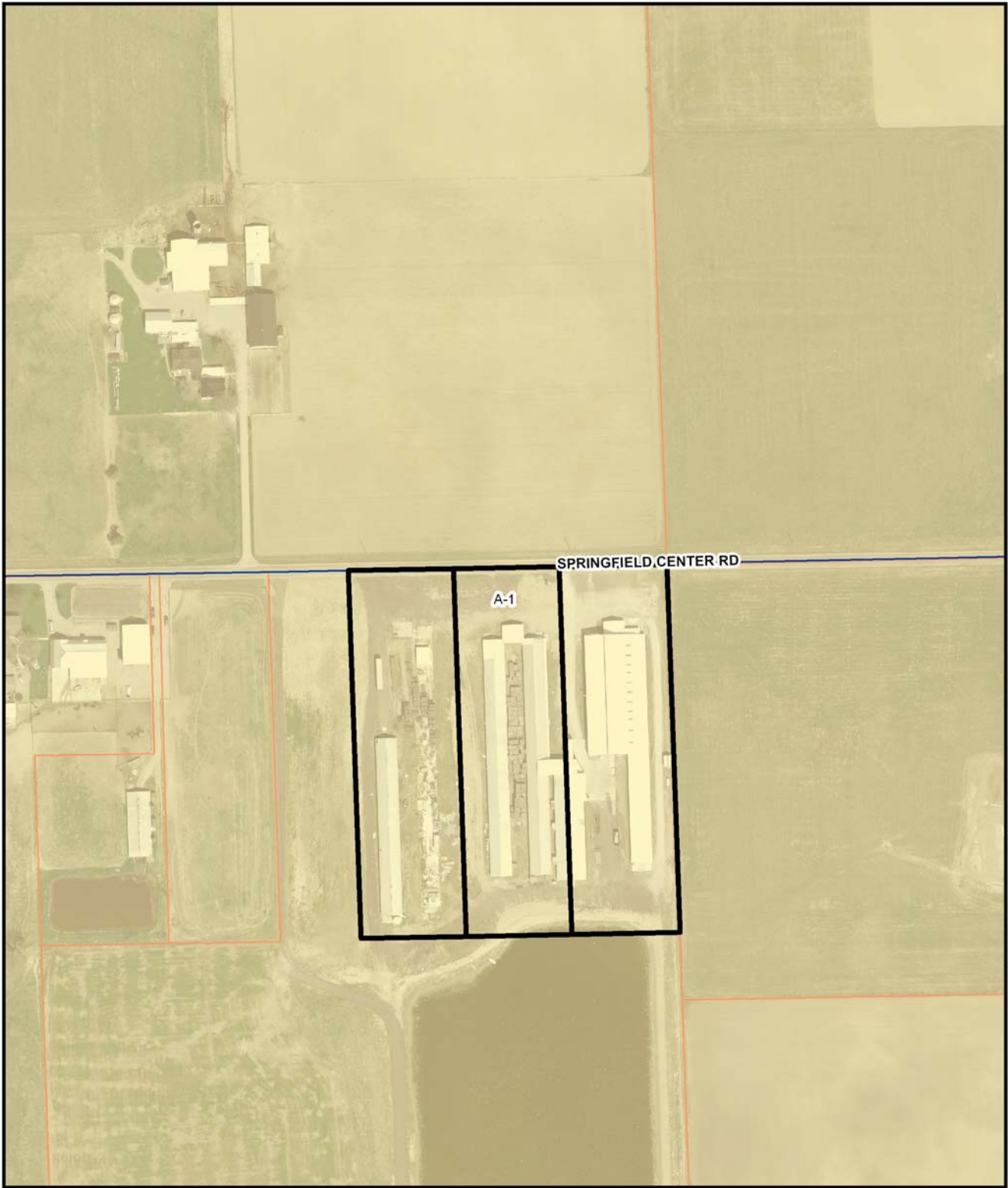
Limited information was supplied by the applicant to staff. The Board may want to question the applicant about current on site activities, use of the semi trailer, noise, status of the dumpster and metal scrap pile, exterior storage, plans for the demolition and construction on site in the future.

Suggested Conditions of Approval:

Should the Board find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions in addition to those typically applied to use variance approvals:

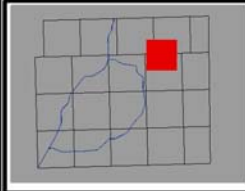
1. Approval shall run for 2 years, unless notified by the Zoning Administrator or successor agency of non-compliance status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding properties, this variance shall run with the applicant and not the real estate.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ ZHO or any successor agency.
4. Permits and approval from all applicable federal, state, and local agencies shall be required.
5. The property shall be kept free of any and all refuse, debris, and junk at all times.
6. Hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday and 8:00 a.m. to 12:00 p.m. on Saturday.
7. The number of employees shall be limited to ten, including the applicant.
8. Signage shall be limited to one twelve square foot non-illuminated monument sign. The sign shall not exceed four feet in height from existing grade. On site temporary signs shall be prohibited.
9. Exterior storage shall be limited to one dumpster for metal scraps. The dumpster shall be located between buildings and setback a minimum of 200 feet south of Springfield Center Road. All other exterior storage is prohibited.
10. Exterior lighting shall be prohibited.
11. Two portable bathrooms are permitted on the south side of the buildings.
12. Expansion beyond the buildings totaling 34,500 square feet shall require Board of Zoning Appeals, or successor agency, approval.
13. Waste material shall be disposed of in a manner conforming to local, state and federal regulations.
14. On site retail sales shall be limited to roofing and siding material processed on site.
15. The Board of Zoning Appeals hereby grants the Allen County Zoning Administrator or her/his designated staff authority upon written request to consider an extension of any Board approved condition, except condition 1, for a period not to exceed six months.

Notes:



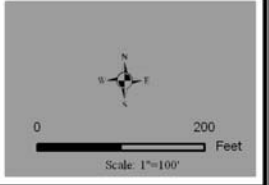
SPRINGFIELD, CENTER RD

A-1



Variance 2892/09

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