

**WHITLEY COUNTY BOARD OF ZONING APPEALS  
STAFF REPORT**

**18-W-SE-8      SPECIAL EXCEPTION**  
Amos Yoder  
4757 W. 300 South

**JULY 24, 2018**  
**AGENDA ITEM:    4**

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**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 22.829 acres

The petitioner is requesting a modification to a previously granted special exception to amend hours of operation and to update ownership. While the request is a modification of certain details, the Board may consider all aspects of the special exception if they deem it necessary.

**PROPOSED BUSINESS DETAILS**

The business in question is a lumber products operation that produces pallets and boxes. The operation previously received Board approvals in 2009 and 2007 for expansions of the business that has been in operation since approximately 1994.

One prior condition of approval included that the special exception is for Amos Yoder and is non-transferable without further Board approval. Mr. Yoder is seeking to add his daughter, Ada-Marie as an owner in the business. She would possibly in the future move into the residence on the property, and Mr. Yoder would move elsewhere, though he would continue involvement in the business. Mr. Yoder has nine children and would like to request that the special exception be transferable to any of those children.

The hours of operation are also being requested to be modified to be 7am to 7pm, Monday-Friday, and 7am-noon on Saturdays. Previously, the hours of operation were presented as 6am to 2:30pm, Monday-Friday, with only occasional Saturdays.

No other changes are proposed to the previously approved special exceptions.

The Board has previously determined that the lumber products business is a special exception use in the AG, Agricultural district. The requirements of Section 10.9, Special Exception Standards apply.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;

*Other than sawdust, which can be explosive if not properly contained, the business operation generally would not have any dangerous, injurious, or noxious elements or conditions.*

*Of the performance standards, noise may be a concern. Previous discussions indicate that noise could be an issue, though relatively limited. If noise is significant, the proposed modification to hours of operation could permit noisy conditions into times of day that had been previously quiet. While 7am-7pm is a typical standard for most noise concerns, the change may affect surrounding properties that have come to expect a shorter time period.*

2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;  
*No changes are proposed to the building and grounds. Previous conditions dealing with storage of materials and product should be renewed.*
3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;  
*No changes are proposed to the building and grounds. Previous conditions dealing with storage of materials and product should be renewed.*
4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and  
*No known problems with traffic congestion have been noted, so it is expected that the business operation has been compliant with this criterion.*
5. The special exception shall preserve the purpose of this Ordinance.  
*The use has been determined by the Board in previous cases to be a permissible special exception of the AG district.*

#### **SUGGESTED CONDITIONS**

1. The Special Exception is granted as presented and per the site plan.
2. The Special Exception is granted for the applicant and/or any of his 9 children and is otherwise non-transferable without further Board approval.
3. Operating hours shall not extend beyond the submitted hours of 7am to 7pm, Monday through Friday, and 7am to noon on Saturdays.
4. All raw products are to be stored on the South side of the building with the exception of the product stored inside and product that is waiting to be brought into the building or picked up. Raw product waiting to be picked up is allowed outside for one day.
5. Any other conditions from prior approvals are still in effect.

Date report prepared: July 18, 2018, NB.

#### **BOARD OF ZONING APPEALS ACTION**

Motion:

By:

Second by:

<b><i>Vote:</i></b>	<b>Deckard</b>	<b>Denihan</b>	<b>Klein</b>	<b>Wilkinson</b>	<b>Wright</b>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					