

**Board of Zoning Appeals**

**Gaydos – Conditional Zoning Permit Request**

**April 27, 2011**

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Ch. Manley called the meeting to order at 7:30 p.m.

Roll Found: Manley, Hoop, Zeleznak, Mainzer, Sullivan and Calabro present. Also present: Trustee Catherwood, Zoning Commission Ch. Kamps, Zoning Commission Vice Ch. Siarkowski the applicant Mr. and Mrs. Jessica and Nicholas Gaydos, Mr. and Mrs Robert and Lorrie Kremser, Mr. Steve Taranto, Mr. Dave Gaydos, Ms. Sandy Moson, Mr. Rich Hartman, Ms. Pam Redovan, Ms. Susan Deluca, Mr. Robert Jenkins, Mr. Shane Kremser, Mr. and Mrs. Bill and Sandy Bazemore, Mr. and Mrs. Walter and Heidi Gutwein, Mr. and Mrs. Charles and Rose Beganyi, Ms. Olga Nikolic, Mr. and Mrs. Tom and Diane Dannery, Mr. Tom Dubiel

Ch. Manley stated that Kevin Sullivan will be sitting in for Vice Ch. Fox who is absent.

Recording Secretary Gienger polled the Board as to whether they inspected the property at 1571 Mattingly Road, Hinckley Township (Parcel #01603B19026).

**Response: Manley – yes on 4/23/11, Hoop – yes on 4/23/11, Zeleznak – yes on 4/26/11, Mainzer – yes on 4/23/11, Sullivan – yes on 4/23/11, Calabro – yes on 4/26/11.**

Ch. Manley stated that the Hinckley Township Board of Zoning Appeals acts within the regulation of Section 519 of The Ohio Revised Code and exercises its power as provided under Section 7 & 13 of The Hinckley Township Zoning Regulations, that all hearings are open to the public, that all persons wishing to testify must do so from the podium, be sworn in, and must identify themselves giving their address. Evidence and testimony must be pertinent to the hearing at hand and that it is within his discretion to limit personal comments. He stated he will not permit personal attacks and opinions. Disruptive persons will lose their right to remain at the hearing.

Ch. Manley stated that the hearing tonight is for an application submitted by Mr. Nicholas Gaydos for a conditional zoning permit.

Recording Secretary Gienger polled the Board as to whether they received the packet of information and reviewed all information for the Conditional Zoning Permit at 1571 Mattingly Road, Hinckley Township (Parcel #01603B19026).

**Response: Manley – yes, Hoop – yes, Zeleznak – yes, Mainzer – yes, Sullivan – yes, Calabro – yes.**

Mr. Nicholas Gaydos, owner of the property located at 1571 Mattingly Road, Hinckley Ohio was sworn in accordingly.

Ch. Manley asked Mr. Gaydos to read his letter he submitted into record.

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Mr. Gaydos read the letter into the records.

Ch. Manley asked Mr. Gaydos if he read the Zoning Regulations. Mr. Gaydos stated that yes he has read them.

Mr. Sullivan asked Mr. Gaydos if he conducted any business out of his house. Mr. Gaydos stated that he did not. He only used the property for storage of his equipment. Mr. Gaydos asked for further clarification of the question.

Mr. Sullivan stated that conducting business includes answering phones, invoicing, paying bills, bookkeeping, etc. Mr. Gaydos stated that yes he does do the bookkeeping at his house.

Mr. Sullivan asked Mr. Gaydos if he had a home office or an area designed for this business operation. Mr. Gaydos stated that he does not have a specific area/office. He conducts the work at his kitchen table.

Mr. Sullivan asked Mr. Gaydos what the purpose of the accessory building he is proposing to build. Mr. Gaydos stated he plans to store his lawn care equipment and trucks and trailers for his business.

Mr. Sullivan asked Mr. Gaydos if he plans to use it for any personal use. Mr. Gaydos stated he does plan to use it for personal storage of his equipment, four wheelers, tractors, etc.

Mr. Sullivan asked Mr. Gaydos what percentage of use for the building will be for business use and for personal use. Mr. Gaydos stated it will be 75% personal use and 25% business use.

Mr. Sullivan asked Mr. Gaydos what the dimensions of the barn will be. Mr. Gaydos stated that it will be 40'x60'.

Mr. Zeleznak asked Mr. Gaydos what kind of trucks he had. Mr. Gaydos stated he has a dump truck and a pickup truck.

Mr. Zeleznak asked Mr. Gaydos what other equipment he would be storing. Mr. Gaydos stated he had two trailers, mowers and accessories to store.

Mr. Zeleznak asked Mr. Gaydos if he thought that he could contain all that equipment within 25% of the new building. Mr. Gaydos stated that yes he believed he could.

Mr. Zeleznak asked Mr. Gaydos if he understood that the Zoning Regulations stated that the majority of a residence cannot be used for business. Mr. Gaydos stated he understood.

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Mr. Zeleznak asked Mr. Gaydos how many people his company employed. Mr. Gaydos stated he employed two people.

Mr. Zeleznak asked Mr. Gaydos if he ever planned to expand his business and hire more people. Mr. Gaydos stated he did not have any plans to do so and that he wanted to keep his company small.

Mr. Zeleznak asked Mr. Gaydos if this is the size he has always been. Mr. Gaydos stated in the beginning it was just him and then his business expanded to this size and it has stayed at this size and plans to stay this size.

Mr. Zeleznak asked if he thought he could keep the traffic to two vehicles in and out twice a day. Mr. Gaydos stated that yes other than his employees driving in and leaving for the day and his own personal truck in and out during the day.

Mr. Sullivan questioned that the 25% Mr. Gaydos stated may be too small of an area to contain all that equipment and for a 40'x60' building that would be a total of 600SF. Mr. Gaydos stated that he may need to think about his estimate and answer later.

Ch. Manley asked Mr. Gaydos about his snow plow operation as snow plowing is 7 days a week and all hours of the day. Mr. Gaydos stated that he does not plan to operate his snow plow business from his property.

Ch. Manley asked Mr. Gaydos how he plans to not work on weekends if it rains all week and he needs to get grass cut. Mr. Gaydos stated it would only be on occasion that he may need to work on a Saturday, which he stated in his letter.

Ch. Manley stated to Mr. Gaydos that this is a conditional use permit and that the Board may heavily limit the operation of his business and if he worked beyond those conditions that the Township would be able to pull the conditional zoning permit. Mr. Gaydos stated he understood. Mr. Gaydos stated he never works on Sundays and rarely on Saturdays.

Mr. Sullivan asked Mr. Gaydos what he did with the lawn clippings. Mr. Gaydos stated that he does not bring them back to the property that he disposes and recycles them off site.

Ms. Calabro asked Mr. Gaydos where his equipment was currently. Mr. Gaydos stated that some of his equipment is at an off site storage facility in Brunswick and some is at his house.

Ms. Calabro asked Mr. Gaydos if he is renting a facility in Brunswick. Mr. Gaydos stated he moved the equipment within 30 days to this location after Zoning Inspector Schaefer told him to remove his equipment from his residence.

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Ms. Calabro asked Mr. Gaydos if he plans to grow his company. Mr. Gaydos stated he does not plan to grow his business.

Ch. Manley stated for the record that the barn that was on the drawings has been removed. He asked Mr. Gaydos what he plans to do with the large pile of wood that was on the property. Mr. Gaydos stated that he plans to chip it and remove it.

Mr. Zeleznak asked for Mr. Gaydos to clarify what he meant by the 8:00am start time. Did that mean that they were on the road by 7:00-7:30am to start at a site at 8:00am or did it mean that his employees didn't arrive until 8:00am? Mr. Gaydos stated that his employees didn't arrive until 8:00am and then they left for the day to the site.

Mr. Zeleznak stated that the 25% seemed very tight considering the size of the truck, trailer, accessories, etc. He also stated that per the regulations that the usage had to be under 50%. Mr. Gaydos stated that 25% may be underestimated, but he was sure it would be less than 50% being used for his business.

Mr. Sullivan asked Mr. Gaydos if he had any plans for the building. Mr. Gaydos stated he did not yet. He stated he was told to see if he would be approved first and then he would develop plans.

Mr. Sullivan stated it is difficult to see if the building is harmonious to the rest of the neighborhood without building plans to see what the building will look like.

Being no further questions, Mr. Gaydos was seated.

Ch. Manley stated that Hinckley's Zoning Regulations requires the Zoning Commission reviews all Conditional Zoning Permit Applications. Ch. Manley asked Zoning Commission Ch. Kamps to take the stand and read their letter of recommendation.

Zoning Commission Ch. Kamps was sworn in accordingly.

Zoning Commission Ch. Kamps read the Zoning Commission letter into the record.

Ch. Manley asked Zoning Commission Ch. Kamps to further explain bullet point 5 regarding Article 7.4. Zoning Commission Ch. Kamps stated that as long as the property is not primarily used for business, it is allowable.

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Mr. Sullivan asked Zoning Commission Ch. Kamps if he saw any drawings of the proposed building. Zoning Commission Ch. Kamps stated he saw a picture on his application but no drawings.

There being no further questions, Zoning Commission Ch. Kamps was seated.

Bob Kremser of 1541 Mattingly Road was sworn in accordingly.

Mr. Kremser stated he lived directly adjacent to Mr. Gaydos to the east of Mr. Gaydos property.

Ch. Manley asked Mr. Kremser for his comments. Mr. Kremser stated that he and his wife have lived at their current residence for 17 years. They built the house themselves and it was completed in 1994. He stated that the previous neighbor (on Applicants property) had to sell her property for personal reasons but there was a young couple who was planning to buy the property. They were excited about this possibility but they didn't expect an established business to move in as it did because they thought there were zoning laws to protect the residential neighborhoods from businesses moving in. In November and December there were (2) big dump trucks in the front of the house, the same size the city uses for plowing. They had salt spreaders, snow plows, salt piled within concrete containment blocks and covered with tarps. He stated that this was within 100' of the road. He stated that he saw the employees vehicles parked there as well.

Mr. Kremser stated at that point he called Zoning Inspector Schaefer to file a complaint. He stated that Zoning Inspector Schaefer visited the site and told Mr. Gaydos to shut down their operation from their house within 30 days since they were not in compliance with the Hinckley Zoning Regulations. Zoning Inspector Schaefer then called Mr. Kremser and told him that Mr. Gaydos had agreed that all operations would stop within 30 days. Mr. Kremser stated that after the 30 days were up, the trucks stayed parked in the back of the property until a snow storm was approaching. Mr. Kremser stated that Mr. Gaydos would then stage his trucks in the front of the property to be ready for the snow storm. Mr. Kremser stated he saw several times where Mr. Gaydos would work on his trucks in his driveway. He stated he saw at least (2) dump trucks and (1) one ton truck, all with salt spreaders and plows ready to be used. He also stated he saw several other types of equipment including a bobcat, landscape tractor, several trailers and numerous pickup trucks parked there, not knowing which were his and which were not. He stated that this is all the equipment he has seen and he questions whether there is more equipment he has not seen.

Mr. Kremser asked why Mr. Gaydos bought this property in a residential neighborhood and caused all this commotion. He stated that he has had a business for 16 years and wondering how he could have been operating within a residential neighborhood for the past 16 years. Mr. Kremser stated that all he and his neighbors want is peace and quiet.

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Mr. Kremser believes that the gravel road and barn will be used for business. He stated that Mr. Gaydos letter does not mention his snow plow business but he believes he plans to run that business as well. Mr. Kremser stated that this driveway is approx. 50' from his property and he will hear the trucks and smell the fumes. He plans to retire in two years and will have to watch a commercial business running next door to his house.

Mr. Kremser stated that he pays high taxes to live at his current location and it is zoned residential and he wants to keep it that way. He asked who would police this business if this conditional use permit was approved. He stated he asked this to Zoning Inspector Schaefer and Zoning Inspector Schaefer stated that he only works part time and wouldn't have the time to police this business all the time and that the residents would need to keep track of the activities. Mr. Kremser stated he is not happy about having to police some business all the time. Mr. Kremser stated that Zoning Regulation 7.4.A.G states that there should be no noise, odor, fumes, etc. in the amount which would tend to depreciate a residential neighborhood in which it is located. He believes all of this will happen.

Mr. Sullivan asked Mr. Kremser what he did for a living. Mr. Kremser stated he is a tool and die maker at General Motors.

Mr. Sullivan asked that in summary of Mr. Kremser's testimony, that in his opinion this business would not be harmonious with the character of the neighborhood, it would change the essential character of the neighborhood, it would be a detriment to the future use of his property and it would be detrimental to the value of his property. Mr. Kremser stated that that is correct.

There being no further questions, Mr. Kremser was seated.

Shane Kremser, son of Mr. Bob Kremser, was sworn in accordingly.

Mr. Kremser asked the Board if there was legal counsel present at the hearing. Ch. Manley stated there was not. Mr. Kremser wanted to know how the recommendation was made by the Zoning Commission when the application was incomplete and there are so many unknowns in the application.

Mr. Kremser stated that the correct way this should have been handled was that the person should have obtained a permit first before buying the property and moving. It is his opinion that this didn't happen in this case and now he is trying to move an established business into a residential neighborhood. He did this in violation of the Zoning Regulations and is now trying to get an application after a complaint was filed and proper procedure wasn't followed.

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Mr. Sullivan asked Mr. Kremser where he currently lived. Mr. Kremser stated he lives in Brunswick.

Mr. Sullivan asked Mr. Kremser what he did for a living. Mr. Kremser stated he is the city engineer, building official and a planner for the City of Brunswick.

Ch. Manley asked Mr. Kremser if he understood that townships are entirely different than cities in home rule. Mr. Kremser stated yes he understood it was different and they are bound to the Ohio Revised Code but the Ohio Revised Code states that for a conditional use permit, the granting of one is based on the zoning regulations. Ch. Manley noted that the Hinckley Zoning Regulations, with approval, allow home base operations.

Mr. Sullivan asked Mr. Kremser if he previously lived at his parents' home. Mr. Kremser stated he did.

Mr. Sullivan asked Mr. Kremser what his educational background was. Mr. Kremser stated he was a Civil Engineer.

Mr. Sullivan asked Mr. Kremser what his occupation was. Mr. Kremser stated he was a Building Official and City Engineer and City Planner.

Mr. Sullivan asked that in summary of Mr. Kremser's testimony, that in his opinion this business would not be harmonious with the character of the neighborhood, it would change the essential character of the neighborhood, it would be a detriment impact on properties in the area. Mr. Kremser stated that that is correct.

There being no further questions, Mr. Kremser was seated.

Mr. Robert Jenkins of 1523 Mattingly Road was sworn in accordingly.

Mr. Jenkins stated he lives two doors east of the residence in question and has lived at his current residence for 17 years. Mr. Jenkins stated he first became aware of this business in January when he was awakened to Diesel salt trucks running at 5:30am getting ready for snow plowing operations. Mr. Jenkins stated that a formal complaint was filed and on January 10 Hinckley Township Zoning Inspector gave Mr. Gaydos 30 days to stop operations. Mr. Jenkins stated he was concerned with contamination of their well water due to the run off of the salt pile on the property. Mr. Jenkins he does not like to see the view of this operation or smell the odors of this operation from his property. Mr. Jenkins stated they do not want to see it in the back of the property either as it will be a detriment to the beauty of the neighborhood. He feels it will be a detriment to the character and beauty of the neighborhood. He stated that he pays a great deal of property taxes to live in this residential neighborhood.

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Mr. Jenkins stated that it is his understanding that any home base occupation should not be primary use of the accessory building and no activity of use shall be visible from any public way or adjacent property. This business is noisy, has odors and vehicle traffic. This proposed plan is not beneficial to the area. He believes that this business will not comply with all conditions set forth in the Zoning Regulations. He believes that this business will be detrimental to the value of his home and not in the best interest of the neighborhood.

Mr. Sullivan asked Mr. Jenkins where his home was with relation to Mr. Gaydos property. Mr. Jenkins stated he is two homes to the east (right as facing the Gaydos house).

Mr. Sullivan asked Mr. Jenkins what was his occupation. Mr. Jenkins stated he is in home improvement and sales.

Mr. Sullivan asked Mr. Jenkins if he was familiar with what makes a home saleable and not saleable. Mr. Jenkins stated he did. He stated he has also built three homes as well.

Mr. Sullivan asked Mr. Jenkins if the Board were to grant this permit if it would adversely affect the value of his home. Mr. Jenkins stated he believed it would.

Mr. Sullivan asked Mr. Jenkins if he thought it would adversely impact the character of the neighborhood. Mr. Jenkins stated he believed it would.

Mr. Zeleznak stated that as a clarification that if Mr. Gaydos or any neighbor was going to run a business and if he were within the regulations, he has a right to do so on his property.

There being no further questions, Mr. Jenkins was seated.

Ms. Susan Deluca of 9806 River Road, was sworn in accordingly.

Ms. Deluca stated Susan Deluca is her legal name but she sells real estate under the name of Susan R. Bradley. She owns Classic Realty Group, Inc. in Broadview Heights. She has lived on River road for 15 years. She sold the house to Mr. Jenkins. She has sold houses for 34 years and she sells views and neighborhoods. She believes that property values does decrease with a business running adjacent to a property.

Mr. Sullivan asked Ms. Deluca that in her professional opinion if this business will have an adverse impact on the values of the homes in the surrounding neighborhood. Ms. Deluca stated that yes it will adversely affect the surrounding property values.

There being no further questions, Ms. Deluca was seated.

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Mr. Rich Hartman of 1475 Mattingly Road was sworn in accordingly.

Mr. Hartman stated he lives 3 houses to the east of Mr. Gaydos. He has lived there for 17 years and has been in business for himself for 36 years. He is in the waterproofing business. He keeps all of his equipment and business off site and separate from the property. He stated when Mr. Gaydos states his business won't affect the surrounding properties, that is his opinion but he believes it will. He said that Mr. Gaydos stated he has a Ford 550 truck and called it a one ton truck. However those vehicles can carry a lot more than one ton.

Mr. Sullivan asked Mr. Hartman in his opinion how much of the proposed building he thinks Mr. Gaydos will use. Mr. Hartman states he believes Mr. Gaydos will use the entire building.

Mr. Hartman stated that he thinks the employees will pull in and park wherever they want and the cars will not be out of site as Mr. Gaydos stated. Mr. Hartman stated that he doesn't think all of this equipment will be out of site as Mr. Gaydos stated. He also asked who will be the watchdog for this activity. It will have to be up to the neighbors to do this. He also stated that he thinks there will be more traffic activity and it will depreciate the neighborhood, contrary to Mr. Gaydos stating it would not.

Mr. Hartman stated that he lives three houses away and can hear the activity and diesel trucks always have fumes that smell. Mr. Hartman stated he moved to avoid businesses and pay a lot to be where he lives and thinks that all neighbors will be affected.

Mr. Sullivan asked Mr. Hartman that since he is in the waterproofing business and knows about trucks, in his opinion if Mr. Gaydos is doing any repairs in his garage, will he need to have the engine running while doing these repairs. Mr. Hartman stated it depended on what types of repairs need to be done.

Mr. Sullivan stated in summary of his testimony that based on Mr. Hartman's opinion that if the Board approved this Conditional Zoning Permit, that it would not be harmonious with the character of the neighborhood and that it would have an adverse impact on the neighborhood. Mr. Hartman stated that it is correct.

Mr. Sullivan asked Mr. Hartman if in his opinion whether the trucks going in and out of the driveway will create a hazard. Mr. Hartman stated he did not know if it would create a hazard.

There being no further questions, Mr. Hartman was seated.

Mr. Walter Gutwein of 1530 Mattingly Road was sworn in accordingly.

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Mr. Gutwein stated that he lives across the street from Mr. Kremser. He stated that he can attest to the smells and fume of Mr. Gaydos operation. He stated that in the winter he drove his kids to the end of the driveway to wait for the bus. His kids got out of the car to watch for the bus but quickly got back in due to the diesel fumes of the trucks across the street.

Mr. Sullivan asked Mr. Gutwein where the trucks were parked. Mr. Gutwein stated that the trucks were parked in front of the property.

Mr. Sullivan asked Mr. Gutwein how many trucks he saw. Mr. Gutwein stated that he saw somewhere between 5-8 trucks all parked in front of the property.

Mr. Sullivan asked Mr. Gutwein what his occupation was. Mr. Gutwein stated he is an engineer working for a firm that has aerospace, chemical, mechanical, electrical and industrial engineers.

Mr. Sullivan asked Mr. Gutwein if his occupation gave him any specific knowledge as to diesel trucks. Mr. Gutwein stated they have done environmental studies and seismic analysis.

Mr. Sullivan asked Mr. Gutwein then if he were an expert regarding environmental impacts/issues? He also asked whether in his opinion the operation of this business would have a negative impact on the neighborhood and environment of the neighborhood. Mr. Gutwein stated he did believe it would have a negative impact on the neighborhood.

There being no further questions, Mr. Gutwein was seated.

Ms. Jessica Gaydos of 1571 Mattingly Road was sworn in accordingly.

Ms. Gaydos stated that she is Mr. Nicholas Gaydos wife. Ms. Gaydos stated that she would like to address a few issues brought up in the hearing. She stated that at their previous residence, their neighbors sold their house and received full market value for the property. She stated that they were told to get the permit first before they should submit the building plans. She stated that Mr. Jenkins also runs a home base business and that he advertises his home address as his business address and his truck sits outside also. She stated that the barn was removed due to poor structural integrity. She stated that they had the salt pile outside due to selling their previous house quicker than they had planned.

Mr. Sullivan asked Ms. Gaydos if she had a position in the business. Ms. Gaydos stated that she is listed as the Vice President for bookkeeping reasons.

Mr. Sullivan asked Ms. Gaydos how many trucks the business owns. Ms. Gaydos stated there are two salt trucks that are off the premises, the red truck (the 550), the black one, his personal vehicle and the tan truck for employees to use.

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Mr. Sullivan asked Ms. Gaydos then if there are four trucks for business use. Ms. Gaydos stated there are four trucks plus his personal truck.

There being no further questions, Ms. Gaydos was seated.

Mr. Gaydos took the stand once again.

Ch. Manley asked Mr. Gaydos if he would like to address any items that were stated in the hearing.

Mr. Gaydos stated that the big trucks discussed will not be on the property anymore.

Ch. Manley asked Mr. Gaydos when the trucks were last on the property. Mr. Gaydos stated in early February.

Mr. Gaydos stated there will be no more salt storage on the property; he now has a place to store his salt for the winter. He stated the only snow plow truck on the property in the future will be his own personal plow truck. He does not plan to run his snow plow business out of his house.

Ch. Manley stated that to consider a conditional, the Board will have to set conditions, such as they will have no employees on the property before 8:00am. Mr. Gaydos stated that was acceptable.

Ch. Manley stated that he asked for a Monday through Friday operation but have acknowledged that he does work some weekends. Mr. Gaydos stated that he will comply if he has to accept just the Monday through Friday operations.

Ch. Manley asked Mr. Gaydos if he had a problem submitting a list of trucks, makes models and license plates that will be on the property every six months and give that list of trucks to Hinckley. Mr. Gaydos stated that was acceptable.

Ch. Manley asked Mr. Gaydos if it were acceptable the Zoning Inspector at any time during the hours of 8:00am-6:00pm M-F could make an inspection on the property. Mr. Gaydos stated that was acceptable.

Ch. Manley asked Mr. Gaydos if he had an issue with no salt, mulch, top soil, fertilizer, etc. will not be stored on the property or delivered to the property. Mr. Gaydos stated that was acceptable.

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Ch. Manley asked Mr. Gaydos if he had an issue with limiting all truck repairs to the new building. Mr. Gaydos stated that was acceptable.

Mr. Zeleznak asked Mr. Gaydos what type of repairs he performs on his trucks. Mr. Gaydos stated he performed minimum repairs such as oil changes, blade repair, things of that nature. Mr. Gaydos stated that he sends major repairs to a mechanic.

Mr. Zeleznak asked Mr. Gaydos if his dump truck was a diesel. Mr. Gaydos stated that is his only diesel truck.

Ms. Calabro asked Mr. Gaydos if that truck would remain on the property. Mr. Gaydos stated it would.

Mr. Zeleznak asked Mr. Gaydos if the only traffic in and out would be done in the morning when leaving and in the evening when returning. Mr. Gaydos stated that is correct.

Ch. Manley asked Mr. Gaydos if he had a problem with his employees parking only inside of the new building. Mr. Gaydos stated that is what he prefers.

Ch. Manley asked Mr. Gaydos about the border he planned for the side of the garage. Mr. Gaydos stated that he plans to plant 8' white pine trees on the east side of the garage.

Ch. Manley asked Mr. Gaydos how quick he planned to have the building done. Mr. Gaydos stated he plans to have the building and all work associated with it done within 90 days. He has an Amish crew set up and ready to build.

Mr. Sullivan asked Mr. Gaydos if he had a bobcat. Mr. Gaydos stated he did.

Mr. Sullivan asked Mr. Gaydos if he owns any other motorized vehicles. Mr. Gaydos stated he owns a tractor, but it is his personal tractor, not part of the business.

Mr. Sullivan asked Mr. Gaydos if he owns any other equipment. Mr. Gaydos states he owns two zero turn riding mowers, a walk behind mower, backpacks, weed whackers, rollers, chain saws, etc.

Mr. Sullivan stated when they were on site they saw some large concrete blocks. He asked Mr. Gaydos what he plans to do with those. Mr. Gaydos stated they were from his previous residence. He is trying to sell them or move them.

Mr. Sullivan asked Mr. Gaydos if the Board were to deny the conditional use permit, if he would build the building anyway. Mr. Gaydos stated he more than likely would build the barn.

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Mr. Zeleznak asked Mr. Gaydos what the barn will look like, and also address the Board some of the neighbors' concerns regarding noise, fumes, etc. Mr. Gaydos stated the barn will be a steel sided barn with a steel roof, tan in color with two garage doors and landscaping to conceal the barn and blend it into the landscape. The diesel trucks will be off the property other than his new diesel truck which has 2010 emissions and minimum smells. He will have no salt, no deliveries, will see some fill dirt for personal use to fill in some areas on the property. He is not trying to ruin the neighborhood; he just wants to make a living.

Mr. Zeleznak asked Mr. Gaydos what he plans to do with the driveway. It currently looks like a construction drive. Mr. Gaydos stated he plans to use 57 gravel and level it and make it look like a standard stone drive.

Mr. Zeleznak asked Mr. Gaydos what is the time frame of this work. Mr. Gaydos stated the stone will be done within the next couple weeks and the garage and landscaping will all be done within 90 days.

Mr. Zeleznak stated that the Board could put a time limit on the conditional permit. Mr. Gaydos stated he understood.

Ms. Calabro asked Mr. Gaydos if he has been in business for 16 years. Mr. Gaydos stated he has.

Ms. Calabro asked Mr. Gaydos if his business has grown any during that time period. Mr. Gaydos stated he has not.

Ms. Calabro asked Mr. Gaydos if he had the same amount of equipment, trucks, etc. Mr. Gaydos stated he did buy two new trucks about five years ago. He stated his snow plow business has increased, but not his landscape business.

Ms. Calabro asked Mr. Gaydos if he could keep all of his equipment at the storage facility in Brunswick. Mr. Gaydos stated he could not because it is an open lot and his equipment would get stolen.

There being no further questions, Mr. Gaydos was seated.

Ch. Manley stated that on a conditional use application so Duncan Factors do not apply.

Mr. Sullivan stated this is a motion to approve the application of Nicholas Gaydos for a conditional use permit to operate a landscaping business home based occupation at 1571 Mattingly Road, Hinckley subject to the following conditions as stated by Ch. Manley.

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Ch. Manley stated the conditions are as follows:

- All owned trucks, equipment, or any equipment associated with landscaping business to be housed in a building to be built on the property.
- All employees must park in the new outbuilding once it is built.
- All repairs to equipment, including trucks, have to be done within the building.
- No fertilizer, mulch, top soil, salt, seed, stone and any other items normally associated with landscaping business to be stored anywhere on the property.
- No lawn debris to be stored on the property.
- Conditional permit is for the hours of 8:00am-6:00pm Monday through Friday
- Permit the Zoning Inspector on the property Monday through Friday between the hours of 8:00am-6:00pm.
- Barrier of white pine trees down the east side of the property shielding the neighbor on the east side from approximately 30' from Mattingly Road as far back as the outbuilding.
- No snow removal equipment permitted on the property other than for his own personal use.

Ms. Mainzer seconded the motion.

#### **Vote:**

**Manley – No.** Ch. Manley stated Mr. Sullivan summed up many things he was going to state also. He also noted that in the past they have had many landscaping companies in the Township and the Township have asked them to move off premises as well.

#### **Hoop – No**

**Zeleznak – No.** Mr. Zeleznak stated he voted no because he didn't feel Mr. Gaydos could stick to the conditions as stated.

#### **Mainzer – No**

**Sullivan – No.** Mr. Sullivan stated he voted no for two reasons. One is a matter of law. For a home base occupation, the zoning regulations, provide that the operation must be conducted entirely within the dwelling or the accessory building by the owner and this use shall be entirely incidental and secondary to the primary use of the dwelling or accessory building. He feels this application fails under that definition. Mr. Sullivan also believes that the preponderance of the evidence shows that the general standards have not been met, that it would not be harmonious with the neighborhood and it would adversely impact the values of the surrounding homes.

#### **Failed by a vote of 5 to 0**

Ch. Manley stated that any person adversely affected by a decision of the Board of Zoning Appeals has 30 days to get a copy of the minutes and file suit. A copy of the signed documents will be given to the applicant today.

**Board of Zoning Appeals**  
**Gaydos – Conditional Zoning Permit Request**  
**April 27, 2011**  
**15**

Meeting was adjourned at 9:11 p.m.

Todd Gienger, Recording Secretary

Minutes Approved: \_\_\_\_\_, 2011

\_\_\_\_\_  
David Manley, Chairman

\_\_\_\_\_  
(Excused)  
Dottie Fox, Vice Chairman

\_\_\_\_\_  
Jeff Hoop, Member

\_\_\_\_\_  
Dave Zeleznak, Member

\_\_\_\_\_  
Julie Mainzer, Member

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Kevin Sullivan, Alternate Member

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Josephine Calabro, Alternate Member