Mr. McMillan called the official meeting of the Hamilton County Board of Zoning Appeals – South District to order at 7:00 p.m.

Members Present: Adam Zeller, Charlie McMillan, Jr., David Musselman, Jim Galloway, and John Miller – alternate. Absent: Chuck Crow. Also Present: Charles Kiphart, Director; Aaron Culp, Legal Counsel; and Lynette Mosbaugh, Recording Secretary.

Declaration of Quorum: Mr. McMillan declared a quorum with four regular members and one alternate member present.

Guests: See sign-in sheet.

Communications/Reports: Nothing to present.

Approval of Minutes: Mr. McMillan identified the minutes of the March 27, 2019 meeting. Does everyone have a copy?

Mr. Musselman made a motion to approve.

Mr. Zeller seconded.

With no comments or corrections… Mr. McMillan called for the vote. 5 yes votes… 0 no votes.

Old Business: Nothing to present.

New Business: Mr. McMillan began with SBZA-R.V.-0001-03-2019 a requirement variance. This was tabled at the March meeting due to an issue with notices. This is concerning installing seven entrance/exit signs. (1) Each sign will be 5 ft. tall from the top of the sign to ground level; ordinance allows 3 ft. (2) Sign size proposed is 3 ft. by 4 ft. or 12 sq. ft.; ordinance allows 2 ft. by 1 ft. or 2 sq. ft. Location: 13002 State Road 38 East and 17042, 17092, and 27132 Middletown Avenue, Noblesville Indiana.

Mr. Galloway advised the board that he was one of the notified land owners. I feel like I can hear this without any bias either way.

Mr. Culp asked Mr. Galloway if he had any property interest or financial interest in the project.

Mr. Galloway answered, no, not really. And, actually I’m the second property away, I believe, so I don’t join them.

Mr. Culp stated that as long an neither anyone from the public or the BZA objects then it’s not an issue.
Mr. McMillan, Mr. Musselman, and Mr. Zeller indicted that they had no objections.

Mr. Culp stated for the record that Mrs. Burdett had verified that all the notices were corrected so they have done what they needed to do after last month.

**Chad Hartwick, with E & B Paving,** stated his name and employer for the record. I’m here tonight to request the sign variance for bigger than normal signs to be placed for entrance and exit notifications for the new asphalt plant located at 17092 Middletown Avenue which also has an exit onto State Road 38 which was the other exit address mentioned in the petition. The pictures of the signs are in the packet. The State Road 38 drive is permitted as an exit only. With INDOT we cannot have trucks coming in that drive. That was just something that we did to speed along the permit process with them. We agreed to do that and think this will help notify our truck drivers to make sure nobody messes up and tries to turn in that drive. The size is so they can see it as they’re approaching the drive and not slow up the traffic on State Road 38.

The 17092 E & B sign is this one. That’s the new entrance to the new Stoney Creek Asphalt Plant off of Middletown Avenue.

Then there’s a drive a little farther south on the west side of Middletown Avenue for IMI which in the future will be their new entrance. It is getting shifted from where it currently is to the north a couple a hundred feet. The entrance is already built and permitted with the county.

We feel these signs would help the truck drivers. There is a very high volume of tri-axle truck traffic going to the stone quarry and our asphalt plant. This is so they don’t mess up and go to the wrong place when picking material up or dropping material off or stopping in the middle of the road trying to figure out where they’re going.

Mr. McMillan asked Mr. Hartwick if the signs were reflective.

Mr. Hartwick answered, no. I don’t believe that they are. The signs are the same size and basically the same legend type as the existing signs. There is no lighting on them. We don’t have a lot of truck traffic at night. In some instances, we do if we’re having night projects but we’re hoping the headlights will be enough so they can see them.

Mr. Galloway asked Mr. Hartwick how far the signs would be off of Middletown Avenue. (2) My concerns would be signs B on either side of the entrance right on the curve that they wouldn’t cause any sight problems for traffic. (3) My concern is if you’re headed northeast on Middletown and there’s traffic coming towards you, you’d like to know where they’re at. If they’re back far enough it would be alright because for a car they’re going to be right in the line of sight for a car. For a truck they will be up above the signs. (4) And if I remember correctly, the berm doesn’t give you any trouble.

Mr. Hartwick answered, on our right-of-way. On the east side we’ve been going off the proposed future right-of-way which is, I think, 75 ft. We have a security gate that is off about 100 to 125 ft. so the signs would be somewhere in front of that gate, and then the same with State Road 38.
I understand. The stop bar for that exit is 12 ft. off the edge of the road and 24 ft. off of centerline. Our signs would be another 50 ft. behind the stop bar so as far as traffic exiting our drive they’ve be able to see because they’ll be in front of the sign. We do have some earth berms on the east side of Middletown. They will be pretty much in line with that earth berm. Correct.

Mr. McMillan asked Mr. Galloway if he felt those distances would be ok since he was familiar with it.

Mr. Galloway stated that he thought it would.

Mr. Miller stated that his only problem with it would be the line of sight. I think they need to be up for the drivers. I know how hard it is when you go to new places to find something.

Mr. McMillan stated that it’s definitely for safety. You can’t make a last minute decision in a truck. Any other questions? Thank you, sir.

With no further questions from the board… Mr. McMillan opened the hearing to the public at 7:11 p.m. and invited anyone who wished to speak for or against the petition to please step to the podium, state your name and address.

Mike Buland, of 11901 State Road 38 East, stated his name and address for the record. We’re a little concerned about this because it seems like we’re setting a precedent. There are rules for a 2 square foot sign. And, now, we want a sign that’s six times what is allotted. I’m sure that was put in place in good faith and good conscience. I also think it is rather incongruous to say that drivers can’t find there way into a driveway when they deliver a product. Hopefully they have GPS. Most of the drivers are familiar with that location. There may be more to this proposal than what we see. It doesn’t necessarily mark on the map where these signs are going to be. We’re hearing that but it is not indicated. There is no legal description attached with this. In our experience, and I’ve read a lot of the variances that IMI has asked for and permits through the years and it seems like they look for a precedent and then erode that over time. We’re just simply opposed to making a change in the regulations that were put in place for a good sound reason. A 2 by 2 sign is larger than a stop sign. If their drivers can’t see that I suggest they have another approach to their safety issues. That’s what I have to say.

Mr. Kiphart stated that he does have a map that shows the locations. That was part of the information that they had to submit. I think what was allowed was a 2 by 1. That was 2 square feet.

Mr. Culp advised Mr. Buland that he could come and look at the map if he liked.

Mr. Buland stated that once the cat gets out of the bag then where do the signs go. I live directly across from IMI and, quite frankly, I’d almost rather look at pasture and cows than I would 900 houses. However, now I’m looking at a pile of aggregate that went in and had discussion with them about and I was told that it wasn’t going to be there very long; it was temporary. That’s
when I went back and read an entire itinerary of what protections were going to be there and how thing were going to be done. Mr. Kiphart, I appreciate it’s on a map, but I think when you change a precedent you change a precedent. I simply can’t understand why a driver can’t see a sign.

Mr. McMillan asked Mr. Hartwick to return to the podium. In my notes you said there were some signs of this size that you came in and asked for in the past. (2) And they’re modeled after this. They are the 3 by 4 by 5, correct? (3) So there are already some existing this size?

Mr. Hartwick stated that was done years ago by Mr. Layman. Those are the IMI exit only signs. They are on the north side of State Road 38 just west of Middletown Road. (2) Yes. (3) Correct.

Mr. Kiphart stated that there were also some signs on the outer corners of the property that you came in and got variances for. Basically, I think it was for people that might be planning to move into the area to let them know that this project was there.

Mr. McMillan invited Doug Layman to approach the podium.

Doug Layman, of Irving Materials, stated his name and employer for the record. I don’t remember the year, but I was in this room with Mr. Kiphart and the plan commission and it was approved. We placed signs on our property borders - one is at DeShane and State Road 38, one at DeShane and State Road 32, State Road 32 and Pennington, and Middletown and State Road 38. Those signs are 4 ft. by 8 ft. basically stating what we are – a stone quarry and a presence in the community. And there are two 3 by 5 exit signs in front of our current location.

Mr. Galloway asked Mr. Layman where he said the exit sign was now.

Mr. Chadwick stated that they were the same size and the ones in the diagram. There are 3 by 4.

Mr. Layman responded, ok. My mistake.

Kathy Buland, of 11901 State Road 38 East, stated her name and address for the record. We actually have two properties there right across from IMI Stone Quarry. I was at an event similar to this where they were not supposed to be allowed to go over Stony Creek. They were not allowed to put aggregate and there was supposed to be a berm with trees. Well, they have gone over Stony Creek. There are piles of aggregate. There are no berms and no trees. And, there is quite a bit of traffic. The truck drivers absolutely know where IMI is. There is a ton of building going on which is great. It’s positive for the community. But I also think that ordinances are put in place for a reason. I think seven signs of this size is really a little bit too much to ask for. I think they should be able to follow the guidance that other groups have to. I think it’s an open very beautiful area that’s getting congested. I think it’s up to you and the public to try to make it as peaceful as possible and not an overgrown commercial area. I just think there is some point when you have to say enough. So, to have seven humongous signs I think is a bit of overkill and quite honestly over-asked. That’s my thoughts.

Mr. McMillan asked Mrs. Buland how long she has lived at that address. (2) From your property,
can you see all of those signs? Part of these signs? How many can you see? (3) In the 27 years you’ve been… have you seen any accidents? (4) Involving what kinds of vehicles? Any tri-axles or gravel trucks? (5) If somebody was looking for an entrance or an exit, and where to go you don’t think a truck would be going slower than probably what it should be because it didn’t know where to go? (6) Over the years have you spoken with any of the representatives there about the issues? (7) I think with signage of that size they’re looking at it for safety. There’s, probably, new drivers coming in there daily as it gets busier. There are already signs of that size that are existing.

Mrs. Buland answered, that her home is 26 years old. We have 17 acres. I built the house so it’s nearly 30 years old. (2) We are west of where their quarry is right now. We can see signs. I’m not so sure that the exit sign is right on the road. The trucks come and go in those exits. It’s not just an exit. I would really question the number of signs, the size, and let’s face it… they’re truck drivers. (3) Absolutely. (4) Oh, yes. Multiple. One went through the neighbor’s house. That wouldn’t have been from a sign because that was west of us by DeShane. A sign would have made no difference. I think they had a health issue. Other accidents have been more so by Olio or Boden Road. It’s probably because some of those trucks go very slow coming around there and some people are going very fast through there. (5) No. It’s because they pull off of Olio and they don’t reeve up because they’re turning the corner. It’s probably the slowness of the truck.

Another thing that has caused accidents is there’s been gravel that’s come out of the back of the trucks and people skid because of the gravel on the road. A sign would make no difference with that either. I think that’s more with operational procedures with the company.

(6) Yes, sir. I’ve been down there three times. I actually know the CIO of Irving Materials and called him personally saying, quite honestly, they were dynamiting too much, and this had nothing to do with signs. There is a petition out there for them to stop being able to dynamite. He said, “we have a new person running the dynamite and we’ll pull him off of that role.” I went down personally and talked to a general manager there. My husband went down today and talked to people there. I came to one meeting and they said “We’ll would put in the berm, we’ll put in trees, we won’t aggregate…” and none of that is true. I invite you all to come look and see what we see because it’s an eyesore. I think trying to go outside of an ordinance that’s set for a reason is unfair.

(7) Mr. Buland stated that that was his point exactly. Once a precedent is set these guys have tremendous credence. You’re referencing back to something that we haven’t seen the minutes on. We don’t know what promises were made. And if you look back on some of those minutes, there were a lot of promises made. To use that as a precedent is kind of a false start. What’s the issue today? Do they need signs? And I understand your concerns about safety, but, how large is a stop sign? Can those drivers read a stop sign? I hope so. Why does this have to be six times larger than a stop sign? I just don’t understand that. These rules are put in place for a reason and they’re in place for everyone.

Mr. Layman returned to the podium. You mentioned the original minutes of that meeting and I’m sure they’re on record somewhere, but at that time, we changed our pattern at the stone quarry to exit only onto State Road 38 and we would enter off of Middletown Pike. (Secretary’s note:}
Middletown is identified as a “Road” not a “Pike.”) We did that purely for safety reasons so that we wouldn’t have trucks trying to enter and exit out the same driveway. Like everyone has said… tri-axles take off slow and we didn’t want tri-axles taking off slow, tri-axles trying to turn off of State Road 38 and creating more traffic issues.

At that time IMI made the decision, and again, we came through this same room and came up with the plan that we would exit only onto State Road 38 and enter off of Middletown. I believe that everyone at that time agreed the only way to do that was with signage.

As you said… “you have new customers coming in, different truck drivers coming in.” Sure, the veteran guys… they get it. They understand. State Road 38 is an exit only and that was granted through the state.

But again, I’m speaking for E & B at this time. If we don’t put a sign out there, new trucks may not know that. We don’t want them slowing down in the middle of 38 on a curve. We’d much rather have them slowing down where the intersection is at Middletown Avenue and that’s where they would be entering our operations. I feel like it’s a safety concern and that’s why we’re going for what we’re going for.

Mrs. Buland stated that she highly disagreed. I go by it every single day multiple times. That is not just an exit. That’s an entrance and an exit. To say that it’s an exit… that’s a false statement. To say that an exit sign in whatever size it is, is making a difference, it’s not.

Mr. Miller asked if there was any law where an officer could write a ticket if a guy was to go onto private property through the exit? (2) I see both sides of this as far as her not wanting to see the signs if they’re not obeying the signs that are already there but that’s really out of their control because they don’t own the drivers that are coming in and purchasing product. I have a trucking company. Not to do with gravel or anywhere near that location but I understand how hard it is to see signage when you’re in a larger truck and trying to look in all directions and watch yourself before you enter and exit a place. Signage is very important to me when I show up on a job site, to know where I’m going, and understand what I need to be doing, and not block or obstruct traffic. But I totally see their point as far as not wanting to look at it.

Mr. Culp stated that they could only write tickets off of stop signs or traffic devices that are established by ordinance. They can’t do that with a stop sign or something on a private road. It can only be on public property.

Mr. McMillan asked if once you get into the property is there something that says DO NOT ENTER or anything like that so there isn’t confusion back away from the sign.

Mr. Layman stated that at the front office there are two exit driveways that come out on the north side of State Road 38 so when we come out, you’re headed south and that is where the two 3 by 4 ft. signs are located. They do say exit only. The signs are double sided and they’re perpendicular to the road. We don’t have anything that is parallel to the road that says DO NOT ENTER.
Mr. Zeller addresses the Bulands. I respect the fact that you have a concern over setting a precedent but just to make it clear… that’s the point of this board - to look at each of these variances individually. It doesn’t mean something we may approve will take off and be approved down the road. We look at safety and we look at why is the person requesting this.

Mr. Miller stated that is does appear that they are trying to put signs up to keep people from doing the wrong thing. They had a variance to say they were only going to use this as an exit so they’re trying their best to make a sign that somebody can read for safety reasons to keep them from entering or exiting the wrong direction, but you can’t control the type of drivers that are in those trucks.

Mr. Culp asked Mr. McMillan if they had formally closed the public hearing.

Mr. McMillan stated that they had not.

With no further comments from the public… Mr. McMillan closed the public portion of the hearing at 7:34 p.m. Do I have a motion?

Mr. Galloway moved to approve SBZA-R.V.-0001-03-2019 so we can have discussion.

Mr. Musselman seconded.

Mr. Zeller stated that as long as the signs are back far enough that they don’t impede the view of traffic I see the reason for the larger signs. I don’t have a problem with it.

Mr. Galloway stated that was his thought too. I think they will be back far enough. As far as the person’s comment about if a truck driver can see a stop sign then why does he need a big sign, but I’ve done some of that. Like Mr. Miller said… if you’re looking for some direction when you get to where you’re going it’s a lot different than it is if you’re driving down a road, coming to an intersection. The stop sign is always in the same spot. There is a big difference in a stop sign and a directional sign when you get to where you’re going if there are several ways to get there.

Mr. Zeller added… plus your in a heavy truck that’s harder to stop than a typical vehicle too so you may need a little more time to see where you’re going.

Mr. Galloway stated that he thought it had already been cleared up about the point it is exit only out to State Road 38 and it’s marked that way. That’s what they’re trying to do but not every truck driver realizes that. There will be one every once in a while that will go in that as an entrance when it is clearly marked exit only.

With no further comments from the board… Mr. McMillan called for the vote. 5 yes votes… 0 no votes. Your variance is approved.

Director’s Report: No report.
Legal Counsel Report: No report.

The next BZA meeting will be May 8, 2019.

With no further business to come before the board... Mr. McMillan asked for a motion to adjourn.

Mr. Galloway asked Mr. Culp for the status on the Calhoun property. (2) So, what have we done? They have been in violation and you wrote them a letter a year ago.

Mr. Kiphart stated that they do have an attorney. I have been in consultation with him. I was scheduled to go out to the property next Tuesday with all of them to explain exactly what had to be done but then I realized that I was leaving for vacation. I will get back with them the following Monday and we’ll set up a time to get out.

(2) Mr. Culp stated that he sent them a letter in February and their new attorney contacted me. When the plan commission asked me to send a letter, they asked me to give them one last chance at compliance. He asked to have a meeting with Mr. Kiphart. Mr. Kiphart and his attorney met face to face one time, didn’t you?

Mr. Kiphart answered, yes.

Mr. Culp added... that has taken us to this point. He is saying he wants us to tell him exactly what he needs to do to comply.

Mr. Galloway stated that that’s in writing.

Mr. Kiphart stated that the attorney has everything that we have ever sent to him.

Mr. Culp stated that if it had been his decision, he would not have given him one more opportunity. I did so because that’s what the plan commission directed me to. The vote was specific that... I must give him one more chance before I file suit.

Mr. Galloway stated that this has been going on long enough. I’m getting calls from neighbors now saying, “why are we here?” We tell people they can’t do things and they do them anyway and it doesn’t make any difference.

Mr. Zeller moved to adjourn.

Mr. Galloway seconded.

With no further comments... Mr. McMillan called for the vote. 5 yes votes... 0 no votes. Meeting adjourned at 7:43 p.m.

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Charlie McMillan, Jr., Chairman

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