

Columbus – Bartholomew County Planning Department
Conditional Use Application

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Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: AP
Docket No.: B/CU-16-09

Hearing Procedure: Board of Zoning Appeals Hearing Officer

Conditional Use Application:

Note: It is recommended that all conditional use applications are reviewed in a meeting with a Planning Department staff member prior to being filed. Please contact the Planning Department at 812.376.2550 to schedule that meeting.

Applicant Information (the person or entity that will own and/or execute what is proposed):

Name: Professional Concrete Cutting & Drilling LLC
Address: 15896 E. 650 N. Hope IN 47246
(number) (street) (city) (state) (zip)
Phone No.: 812-390-5365 Fax No.: 812-546-0446 E-mail Address: procutting@aatt.net

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Craig Sims
Address: 15896 E. 650 N. Hope IN 47246
(number) (street) (city) (state) (zip)
Phone No.: 812-390-5365 Fax No.: _____ E-mail Address: procutting@aatt.net

Notification Information (list the person to whom all correspondence regarding this application should be directed):

Name: Craig Sims
Address: _____
(number) (street) (city) (state) (zip)
Phone No.: _____ Fax No.: _____ E-mail Address: _____

How would you prefer to receive official documentation regarding this request (please check one)? If no or multiple selections are made e-mail will be used. E-mail Fax Mail

Property Information:

Address: 15896 E. 650 N. Hope IN 47246
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):



**BARTHOLOMEW COUNTY
BOARD OF ZONING APPEALS
(November 28, 2016 Meeting)**

STAFF REPORT

Docket No. / Project Title: B/CU-16-09 & B/DS-16-10 (Craig Sims)

Staff: Ashley Klingler

Applicant: Craig Sims

Property Size: 5 Acres

Zoning: AP (Agriculture: Preferred)

Location: 15896 East 650 North, in Hawcreek Township

Background Summary:

The applicant is requesting to have a contractor's office at the above location in an accessory structure in the front yard. The applicant has indicated that the proposed conditional use will allow a home-based business of a contractor's office. The applicant has indicated that the proposed variance from Zoning Ordinance Section 6.1(E)(3) is for the purpose of expanding the accessory structure in the front yard.

Key Issue Summary:

The following key issue(s) should be resolved through the consideration of this application: Does the appearance and character of this home-based business affect the residential nature of the property?

Preliminary Staff Recommendation:

Conditional Use: Approval. All criteria have been met.

Development Standard Variance: Approval. All criteria have been met.

Zoning Ordinance Considerations:

District Intent: The "AP", Agriculture, Preferred zoning district is intended to provide an area suitable for agriculture and agriculture-related uses. This district is further intended to preserve the viability of agricultural operations, and limit nonagricultural development in areas with minimal, incompatible infrastructure.

Development Standards: No accessory structure shall be permitted in any front yard. [Section 6.1(E)(3)]

Current Property Information:	
Land Use:	Single- Family Residential
Site Features:	Residence, shed, 2 pole barns, wooded area, and creek.
Flood Hazards:	No flood hazards onsite.

Vehicle Access:	650 North (Collector, Residential, Rural)
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Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AP (Agriculture: Preferred)	Agriculture
South:	AP (Agriculture: Preferred)	Single- Family Residential/ Agriculture
East:	AP (Agriculture: Preferred)	Single- Family Residential/ Agriculture
West:	AP (Agriculture: Preferred)	Single- Family Residential/ Agriculture

Interdepartmental Review:	
Technical Code Enforcement:	<ol style="list-style-type: none"> 1. No issues with this proposal if the use remains storing/parking of the business equipment and vehicles only. (No operating a business such as a vehicle repair garage that was open to the public). 2. There are no building code issues related to expanding the structure to the proposed size. A building permit and inspections are required for the building expansion. As we now know, the building has already been expanded without a building permit and inspections. Because of this situation, proof that the building addition has been constructed properly will be the owner's responsibility. This may include exposing critical structural areas such as post footings and other parts of the structure as necessary. Code Enforcement may require the owner to hire a structural engineer to examine the structure and provide a written evaluation of the findings. No inspections will be performed by Code Enforcement inspectors on this structure until approval from the BZA is granted, all permitting requirements have been met and a building permit is issued. Mr. Sims has contacted our office and made an initial application for a building permit.
County Fire:	No comments at this time.
County Highway:	<ol style="list-style-type: none"> 1. County Highway has no issues. The roads are suitable for trucks typically used for this type of business. Moving van size box trucks generally aren't a problem. They are big but usually not heavy. Hard to load too much heavy stuff in the back doors. Nine employee vehicles doesn't concern me either. Usually just in and out once a day. Their customers won't be going to that location, so the 9 vehicles is probably the extent of the added traffic. No problems with the building expansion. 2. No pipe [culvert] is necessary and we are ok with the gravel drive, but if the drive needs to be paved to be consistent with the Zoning Ordinance that is up to the Planning Department. We have lots of stone drives in the county, not really a problem.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The applicant owns a Professional Concrete Cutting & Drilling company. In 2012, the applicant had one truck; as of 2016, the applicant has expanded to 8 employees and 9 trucks. The applicant indicated that as his business grew, he moved into the larger pole barn on his property located closer to the road. This property is now a gathering location for employees, and storage location for company vehicles. The following chart compares the proposed business with the home-based business criteria from the Zoning Ordinance [Section 6.6(B)]. A home-based business meeting the requirements listed below shall be considered a permitted accessory use to any dwelling unit. Any accessory use meeting the definition of a home-based business but exceeding the requirements listed below may be allowed by the Board of Zoning Appeals as a conditional use:

Topic Area	Description	Status
Activities	The on-site wholesale/retail sale of stocked inventories, assembled products, and constructed products is permitted. Mail-order/telephone /internet sales, as well as the distribution of machined, assembled, and constructed merchandise is also permitted. The home-based business shall not involve any personal services.	✓
Effects of Operation	There shall be no equipment or process used in the home-based business that creates noise, vibration, glare, smoke, fumes, odors, or electrical interference that is detectable, without the aid of instruments, at the property line (as determined by the Planning Director). There shall be no electrical or mechanical equipment utilized in the home-based business that will create any visual or audible interference with radio or television reception.	✓
Employees	The home-based business may not involve the onsite employment of any persons, or regular (on a weekly basis) on-site gathering of any employees, other than those residing at the location of the home occupation.	X
Structural Alterations	The home-based business must not require any structural or aesthetic alterations to the dwelling that change its residential character.	✓
Parking & Business Vehicles	The home-based business shall not involve regular (on a weekly basis) on-site customers, employees, meetings, or other events that necessitate the installation of any off-street parking spaces in addition to those required by this Ordinance for the dwelling unit. The on-site storage of business vehicles shall meet the standards of Article 7 of the Zoning Ordinance.	X
Deliveries	The home-based business must not require the regular use (on a weekly basis) of commercial vehicles for pickup and deliveries, other than those from the U.S. Postal Service or other small package carriers.	✓
Signs	No signs of any type shall be used, other than those permitted in the zoning district by Article 10 of the Zoning Ordinance, Signs.	✓
Outdoor Storage/Display	There shall be no exterior storage of equipment, employee vehicles, or materials that are related to the home-based business. The outdoor storage and display of items for sale shall be permitted, but shall not occupy an area larger than 200 square feet.	X
Business Area	The home-based business shall be located within the dwelling and/or an accessory building, but shall not exceed a total area equal to 500 square feet or 20% of the total floor area of the dwelling (379 sq.ft), whichever is less. No specialized accessory structure shall be constructed for the purpose of housing the homebased business.	X

The gathering of employees, the storage of employee vehicles during the day, the storage of company vehicles, and the area of the business trigger the requirement for Board of Zoning Appeals review.

2. The property is 5 acres in size and the existing dwelling sits approximately 145 feet from the front property line. The lot is 327 deep and so the dwelling sits a little less than half way back from the property line. There is a septic system located just west of the dwelling and there is a stream running along the north (rear) property line. Dense woods are located east of the primary structure on about two-thirds of the site. The pole barn housing the business and its parking area are located in these woods.
3. The applicant has provided the following information regarding the business operations: The business hours vary depending on the work; the hours can range from 7am-5pm or maybe 8pm - 2am. The employees do not work on the property; they go to the project sites only. They sometimes service the company vehicles in the shop. There is no bathroom in the shop. There is no designated business office in the home or shop. Clients may stop by to drop off a check, but work with clients is usually done digitally or over the phone.
4. The home-based business decision criterion states that "the on-site storage of business vehicles shall meet the standards of Article 7 of the Zoning Ordinance". According to Section 7.2(Part 2) of the Zoning Ordinance, all parking spaces and driveways shall either be paved or constructed of crushed stone, and all parking areas shall be designed to prevent any vehicles from having to back into or maneuver on any Collector or Arterial Street or Road. The current drive (which was approved by the County Highway Department) and parking area is made of crushed stone. The parking lot has been constructed in such a way that it does not require employees to back out onto 650 North.
5. The subject property is located just east of the Town of Hope planning jurisdiction. Within the Town of Hope jurisdiction the area along 650 West (South Street) is industrial in nature. Outside of the Hope jurisdiction the surrounding properties quickly become rural in character, including the subject property. The closest neighbor is across the street. The neighbor is to the south of the home, but there is a farm field directly across from the drive used to access the business area. There is existing vegetation between the business area and 650 North.
6. The property also contains a dwelling that is 1896 square feet in size, a 280 square foot utility shed, and a 1500 square foot pole barn. The home-based business decision criterion states "the home-based business shall be located within the dwelling and/or an accessory building, but shall not exceed a total area equal to 500 square feet or 20% of the total floor area of the dwelling (379 sq.ft), whichever is less. In this case 379 sq.ft is the maximum permitted without Board of Zoning Appeals approval. The applicant is using closer to 8,000 sq.ft. between the 3,200 sq.ft. building and the parking lot.
7. The pole barn now associated with the business is closer to the road than the residence, making it in the "front yard." In 2013 the applicant received a development standards variance (with case number B/DS-13-06) to build a 40 foot by 40 foot (1600 square foot) accessory structure in the front yard. The accessory building is setback 85 feet from the edge of the road. Since then, the pole barn has been expanded another 1600 sq.ft.. This is an expansion of an accessory structure in the front yard, which requires approval by the Board of Zoning Appeals. While researching the history of this site, it was found that the applicant did not receive a building permit from Technical Code Enforcement for the expansion. The applicant is now working with Technical Code Enforcement staff to make sure all required permits are obtained.

Comprehensive Plan Consideration(s):

The Future Land Use Map indicates the future use of this property as Agriculture Preferred District.

The following Comprehensive Plan goal(s) and/or policy(ies) apply to this application:

1. **Policy 2-B:** Ensure that development occurs in a manner that preserves farmland, wildlife habitat, woodland, and significant natural features.
2. **Policy 3-C:** Encourage new development to take place in and around existing cities, towns and villages.
3. **Policy 3-F:** Require proper construction methods and materials in accordance with the code. This policy is not to be construed as requiring building permits for agricultural buildings.

Provisional Findings of Fact/Decision Criteria (Conditional Use):

Section 12.4(D) of the Zoning Ordinance permits the Board of Zoning Appeals to allow conditional uses that meet the criteria listed below. The Board may impose reasonable conditions as part of an approval.

- 1. The proposal will not be injurious to the public health, safety, and general welfare of the community.**

Provisional Findings: According to the County Highway Department, the roads are suitable for the number of vehicles and type of trucks anticipated for this use. The Office of Technical Code Enforcement sees no issues with the site remaining vehicle storage, where employees and clients are offsite. The use of the property for vehicle storage does not pose any public health or safety concerns. *This criterion has been met.*

- 2. The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.**

Provisional Findings: With the approval of the attached variance, the proposed home-based business meets all parking, signage, and setback standards. *This criterion has been met.*

- 3. Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.**

Provisional Findings: The closest neighbor is across the street, south of the home on the subject property. There is a farm field directly across from the drive used to access the home-based business. There is existing vegetation between the location of the business structure and 650 North, blocking the home-based business from view of 650 North and the neighbor across the street. *This criterion has been met.*

- 4. The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.**

Provisional Findings: Within the Town of Hope jurisdiction the area along 650 West (South Street) is industrial in nature. Outside of the Hope jurisdiction the surrounding properties quickly become rural in character, including the subject property. The Comprehensive Plan sees this area as Agriculture Preferred. The proposed home-based business will not negatively affect the continued agriculture production in the area. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for conditional use the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Provisional Findings of Fact/Decision Criteria (Development Standard Variance):

The Board of Zoning Appeals may approve or deny variances from the development standards of the Bartholomew County Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The building addition is located behind the existing structure, so the building is not getting closer to the road. The expansion of the accessory building will not create

any public health or safety issues. *This criterion has been met.*

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.**

Provisional Findings: The building addition is located behind the existing structure, so the building is not getting closer to the road. The addition will be screened from view by existing vegetation. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: The house is setback 145 feet from the road which prohibits the placement of any accessory structure on a significant portion of the property. Dense woods on the eastern portion of the property and a stream that runs along the north property line further limit the placement of an accessory structure. The other logical location for the placement of an accessory structure is not possible due to the location of the septic system. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Conditional Use Requested:

I am requesting a conditional use as listed by Section _____ of the Zoning Ordinance to allow the following:

Trucks & Equipment to be stored on my property.

Conditional Use Criteria:

The Columbus & Bartholomew County Zoning Ordinance establishes specific criteria that each must be met in order for a conditional use to be approved. Describe how the conditional use requested meets each of the following criteria.

1. The approval of the conditional use will not be injurious to the public health, safety, and general welfare of the community.

Trucks and Equipment are stored inside a locked lot. The entrance is visible and safe for entering & exiting. The County Road is the same as South Street in Hope which has the industrial park which has several semi trucks on Dr. Riley. I see no public health, safety concerns.

2. The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.

The property has sufficient parking for equipment. It is within the set back regulations for which I received a variance for.

3. Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.

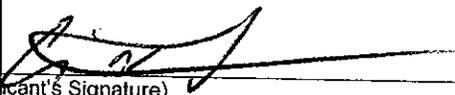
This is a newly constructed, nice building. Trees and landscaping cover it from the road. I own the property to the east and there is no residence across the street only farm fields.

4. The conditional use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.

This is a typical building for this area. Pole Barn style fits the rural community setting.

Applicant's Signature:

The information included in and with this application is completely true and correct to the best of my knowledge and belief.



(Applicant's Signature)

9-30-16

(Date)

Property Owner's Signature (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.



(Owner's Signature)

9-30-16

(Date)

Craig Sims

(Owner's Printed Name)

If the person signing as the "owner" is not specifically listed as such in the records of Bartholomew County please indicate their relationship to that officially listed person, corporation or other entity.

In front of drive.



From west looking
east.



From east looking west.

