

**MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 15<sup>TH</sup> DAY OF JUNE 2017 AT 8:30 A.M.**  
**MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING**  
**4230 ELKHART ROAD, GOSHEN, INDIANA**

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Chris Godlewski, Plan Director; Liz Gunden, Planner; Mae Kratzer, Planner; Duane Burrows, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

**Absent:** Tony Campanello.

2. A motion was made and seconded (*Lyon/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18<sup>th</sup> day of May 2017 be approved with the following correction: Mr. Hesser noted on page 12 the staff item vote states four voted in favor, and it should read three. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/Lyon*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

4. The application of ***John Fisette & Tiffany Allison*** for a Special Use for a home workshop/business for a detail shop on property located on the Northwest corner of Newcastle Dr. & Kerryhaven Dr., North of CR 108, East of CR 1, common address of 29561 Newcastle Dr. in Cleveland Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0243-2017*.

There were 20 neighboring property owners notified of this request.

Mr. Hesser asked if a motion is needed to re-open the public hearing.

**Motion: Action:** Approve, **Moved by** Randy Hesser, **None seconded** Roger Miller that the public hearing be re-opened for this request.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

Mr. Miller asked, if Staff made any changes to the Staff Report, and Mr. Hesser noted it now states the petition was tabled. Mr. Godlewski submitted a letter in remonstrance from Anita Carrick at 29617 Newcastle Dr. [*Attached to file as Staff's Exhibit #1*]. Mr. Hesser reminded those present that the comments heard at last month's meeting are on record and do not need to be repeated. He requested people only speak who did not speak at the last meeting or have new information.

Taylor Allison, 117 Tamarack Dr., Wakarusa, and 29561 Newcastle Dr., Elkhart, was present representing this request and submitted pictures [*Attached to file as Petitioner's Exhibit #1*]. Mrs. Allison stated Tiffany and John Fisette own the home, and rent it to Tiffany's parents Scott and Laura. She stressed Tiffany is one of six children, and cars typically park on the road when

family visits. She added all the siblings are married with a few children who can also drive, and this home is a gathering place for their family. She stressed cars do not park on the road for their business. She then explained the submitted pictures, and she stressed they do not mind people parking on the road. She pointed out the fourth picture, which shows a truck that parks on the road daily. She explained the fifth picture shows what the property looks like while they detail a car. She continued saying taller top vans occasionally need cleaned and cannot be pulled into the garage. She also mentioned an extra car is parked in the driveway when her father-in-law works evenings. Mrs. Allison pointed out the next few pictures showing neighbors' cars parked on the street. She then addressed a picture of their vacuum, a \$40 Shop-Vac. She stressed they do not own an industrial vacuum, and the Shop-Vac causes the same amount of noise as a regular vacuum. She also added they do not intend to have a sign. She continued saying after the complaint was filed Staff advised them to apply for a home workshop/business Special Use. She stressed they do not want approval to run their business from this location forever. She went on to say they would like to legally run their business while saving for their own building. Mrs. Allison addressed the concerns mentioned last meeting dealing with chemicals and noted they only used Windex and dawn dish soap.

David Willink, 54276 Kerryhaven Dr., Elkhart, came on in remonstrance and pointed out his home, the last house on the dead end. Mr. Willink stated he owns the pick-up mentioned by the petitioner, and he added he does not mind the current amount of cars being detailed. However, he mentioned the petitioner stated he wants to expand his business at the last hearing. He stated he believes the only way to grow this business is to increase the number of cars detailed, because the price he charges can only increase so much. He explained two or three cars are currently detailed a day, but he stressed doubling or tripling that number would be unacceptable. He added Kerryhaven is a quiet residential neighborhood.

Arnold Dietz, 29635 New Castle Dr., Elkhart, came on in remonstrance. Mr. Dietz stated the residents of Kerryhaven live here, but he believes this business' purpose is to make a living. He continued saying this business interferes with their goal to live here. He mentioned the water table travels from the Southeast to the Southwest corner of the development, and he is concerned about water contamination due to washing cars. He then added he has a safety concern, because eight children live near the subdivision entrance.

Georgiana Bennet, 29586 Newcastle Dr., Elkhart, came on in remonstrance and stated she was a real estate broker with licenses in Florida and Indiana for over 30 years. She continued saying she was the general manager of Irish Homes the developer of Kerryhaven. She added Kerryhaven was the fourth manufactured homes subdivision developed by Irish Homes, and it was featured in magazines. Mrs. Bennet stressed when a home is purchased in a subdivision with covenants and restrictions they act as a guarantee to the owner. She continued saying from her experiences commercial use integrated into residential neighborhoods causes homes to lose 20%-30% of their property value. She added many retirees and hard-working families live here who have invested time and money into their homes. Mrs. Bennet stated a few days before the last hearing Tiffany Fisetto came to her home and mentioned her brother makes \$9,000 dollars a month cleaning cars. She continued saying, if he makes that much, he should be able to afford a building in a different location. Mrs. Bennet stated no one present at their home owners association meeting was in favor of this request. She added the residents of Kerryhaven hired an attorney to represent them if needed.

Diana Rodecki, 29586 Newcastle Dr., Elkhart, came on in remonstrance and stated she lives about 100 yards from the petitioners. She stated the Fisettes have been good neighbors, and she will use their service, if they move the business elsewhere. Mrs. Rodecki pointed out Mr. John and Mrs. Tiffany Fisette reside at 1160 Hunters Crossing Dr., Granger, and Spencer and his wife live in Wakarusa on a permanent basis. She continued saying the neighbors were surprised by last hearings outcome, because neither of the petitioners live in this neighborhood on a permanent basis. She added the residents of Kerryhaven hired an attorney to review their covenants and held a meeting, which 56 residents attended. She continued saying their attorney spoke to them, and he believes the first covenant prohibits this petition. She clarified Covenant #1 states the lots in Kerryhaven are restricted to residential use only. She stated she does not believe an auto detail shop falls within that covenant. She mentioned Covenant #8 addresses nuisances, stating no obnoxious or offensive activity can take place on any lot, and she stressed the detail shop has become a nuisance to the neighbors. Mrs. Rodecki also pointed out Covenant #13, which addresses site distance on corner properties. She continued saying intersections should be clear by 25 ft., and vehicles parked along the road for detailing interferes with site distance. She added the petitioner mentioned they have a large family, but she believes cars have also been lined up for detailing. She then pointed out Covenant #20 stating the covenants are in effect until 2020, and all homeowners are bound by the covenants. She also added Covenant #22 and #23 give the home owners the right to enforce the covenants, which she stated they will pursue, if this is approved. She continued stating the residents of Kerryhaven will take legal action against this request. Mrs. Rodecki stated the home owners present at the meeting do not believe this business is good for their neighborhood. She added they wish the petitioner well with his business at a different location. She stressed they do not know, if the petitioner has the proper licenses or permits. Mrs. Rodecki then submitted a petition signed by neighbors against this request *[Attached to file as Remonstrator's Exhibit #1]*.

Richard Baughman, 29936 Roscommon Dr., Elkhart, came on in remonstrance. Mr. Baughman stated he lives at the other end of the subdivision, but his friend is a neighboring property owner. He stated he has heard water runs short during the summer on that end of the subdivision. He continued saying he believes a business washing cars should be on city water and sewer.

Tiffany Allison Fisette, 10160 Hunters Crossing Dr., Granger, came on for this petition. Mrs. Fisette stated she spoke with the neighbors to explain why the business takes place at this location. She continued saying her brother made \$9,000 a month when he started his business; however, he now only details two to three cars a day. She added Enterprise not only cut the number of cars he details but also the price per car. She stressed he now makes roughly 60% of what he originally made. She continued saying he started cleaning eight to ten cars a day, because he went to every Enterprise and asked for their business. She explained Enterprise realized he cleaned too many cars, and home office now approves every car cleaned by an outside person. She stressed Enterprise can take two to three days to clean cars that take her brother two hours. Mrs. Fisette stated he brother looked for a building before his prices and number of cars dropped. She continued saying some days her brother does not detail any cars, and she stressed her brother hopes to have his own shop. She went on to say he needs a location, where he could bring in outside business, because he currently only details for Enterprise. She

also explained he has not washed cars since around April 15, 2017. She also mentioned she lived at this residence for 11 years and never needed to conserve her water.

Taylor Allison came back on for this petition. Mrs. Allison stated they want their business to grow; however it needs to grow at a different location. She continued saying they plan to look for an affordable building first then find additional business before the purchase is final. She stressed their business will not grow at the current location. She explained they did not realize detailing was a nuisance and stressed they do not want to be sued. She also added they received a letter about the homeowners' association meeting after the meeting was over. Mrs. Allison explained they want to follow the rules and they hope to find a building with payments less than their mortgage.

Spencer Allison, 117 Tamarack Dr., Wakarusa, came on for this petition and stated he owns Flawless Details along with his wife. Mr. Allison stressed most of the neighbors' complaints were problems when he first started detailing. He continued saying he is lucky, if he details three cars a day, which only take him about 45 minutes each. He added everything takes place inside the garage. He stated he understands why the neighbors were upset at first, but he does not understand their reasons for being upset now. He went on to say he filed for a home workshop/business to follow the rules. Mr. Allison explained he does not know what he will do, if he cannot work from this location. He again stressed he needs a new location, and he requested time to find one. Mr. Lyon asked Mr. Allison's time line for moving off of the property, and he responded he is not sure. Mr. Atha asked why the business is run from this location, and Mr. Allison responded most Enterprise locations are centered around that area. He also added he sometimes spends the night at this residence. He went on to say driving from Mishawaka to Wakarusa and back would increase his turn-over time. He explained he would like a building in the Mishawaka or Granger area.

The public hearing was closed at this time.

Mr. Hesser stressed covenants can be considered by the Board, but the Board's decision is separate from covenants. He continued saying neighbors can pursue action based on the covenants, if this request is approved. He mentioned the Board heard and understood the concerns raised at the last hearing. Mr. Atha asked, if the Board can allow the petitioner six months to move his business off of this property. Attorney Kolbus responded the petitioner could request an extension of the time restriction. Mr. Hesser asked, if Staff can delay enforcement of this decision for 60 days. Mr. Miller stated it does not appear the business was placed at this location with the intent to harm anyone. He continued saying the petitioner is trying to build a business, but he does not believe this is the appropriate location. Mr. Atha mentioned he does not believe a home workshop/business Special Use should be approved in this subdivision. Mr. Miller added he is in favor of giving the petitioner time to find a new location, and Mr. Hesser suggested three months.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action: Denied, Moved by Randy Hesser, Seconded by Joe Atha** that this request for a Special Use for a home workshop/business for a detail shop be denied based on the findings and conclusions of the Board:

1. The Special Use will not be consistent with the spirit, purpose and intent of the Zoning Ordinance. Home workshop / businesses are allowed by Special Use in the R-1 zone.

2. The Special Use will cause substantial and permanent injury to the appropriate use of neighboring property. Although the activity occurs on-site, there will be no outside customers visiting the property.
3. The Special Use will substantially serve the public convenience and welfare by providing local auto detailing services.

**Note:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

Included as part of the motion, Staff to delay enforcement for 90 days.

5. The application of *Levon & Mary E. Brubacher ½ Kamron Brubacher ½ Jt. Ten* for a Use Variance for warehousing and storing of three commercial vehicles and for a 17 ft. Developmental Variance to allow for the construction of an attached garage 33 ft. from the centerline of the right-of-way of High St. (Ordinance requires 50 ft.) on property located on the Southeast corner of Elkhart St. and High St., 1,928 ft. South of CR 40, common address of 400 S. Elkhart St. in Olive Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0235-2017*.

There were eight neighboring property owners notified of this request.

Mr. Godlewski mentioned this request was approved at the last hearing and tabled to allow the petitioner time to submit proposed conditions and commitments. Mr. Hesser asked if the public hearing needs to be re-opened to accept the conditions and commitments, and Mr. Godlewski responded no. Mr. Hesser also asked for any comments from Staff on the submitted materials. Mr. Godlewski stated he believes in similar cases Staff did not make a recommendation.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the conditions and commitments for this request for a Use Variance for warehousing and storing of three commercial vehicles and for a 17 ft. Developmental Variance to allow for the construction of an attached garage 33 ft. from the centerline of the right-of-way of High St. (Ordinance requires 50 ft.) be approved based on the Findings and Conclusions of the Board with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. The existing garage structure will be removed by 7/31/17.
3. The new structure will be completed by 11/30/17.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 6/5/17) and as represented in the Use Variance and Developmental Variance applications.

2. Existing and/or new trees and/or shrubs shall be used to camouflage the High St. side of the newly constructed attached garage.
3. Vehicles parked on the street shall be limited to holidays and weekends.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

6. The application of *Marvin R. Yoder, Trustee, and Emma Sue Yoder, Trustee of the Yoder Family Revocable Living Trust* for a Developmental Variance to allow for the construction of an accessory dwelling to exceed the square footage of living area allowed (Ordinance allows 1,000 sq. ft.) and for a Developmental Variance to allow said accessory dwelling to be two stories (Ordinance allows a single story) on property located on the North side of CR 50, 750 ft. East of West County Line Road (Ash Road), common address of 30875 CR 50 in Locke Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0359-2017*.

There were five neighboring property owners notified of this request.

Glen Miller, 9672 N. SR 19, was present representing this petition. Mr. Glen Miller stated the proposed second story will be unfinished and used for storage. He also mentioned the total proposed living area is 1,280 sq. ft. with a 700 sq. ft. attached garage. Mr. Hesser stated an attic is different than a second story. Mr. Godlewski mentioned Staff considers it a second story, because it could be used as living area in the future. Mr. Glen Miller asked if taking out the window would classify it as an attic. Mr. Hesser asked the difference between a second story and attic, and Mr. Godlewski mentioned that is a building code question for Kevin Williams. Mr. Atha asked, if the attic is included in the square footage, and Mr. Glen Miller responded it will not be living area. He then suggested the attic be eliminated. Mr. Hesser mentioned Mr. Glen Miller will need to prove to the Building Department that the second story is an attic to avoid any additional Variances. Mr. Godlewski mentioned an attic is classified as a second story, if it has a permanent staircase. Mr. Hesser clarified the second story would need to be added to the total square footage

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated second dwellings were a problem for years until the Commissioners addressed the situation. He continued saying they decided second dwellings are allowed within the guidelines. He stressed he believes the Board is bound by the standards set by the Commissioners. Mr. Miller stated he agrees the Board should follow the guidelines. Mr. Hesser suggested the petitioner build a dandy house within the guidelines, if this request is denied. Mr. Godlewski added the property could be subdivided to allow the residence.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Denied, **Moved by** Randy Hesser, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Developmental Variance to allow for the construction of an accessory dwelling to exceed the square footage of living area allowed (Ordinance allows 1,000

sq. ft.) and for a Developmental Variance to allow said accessory dwelling to be two stories (Ordinance allows a single story) be denied.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

7. The application of *Glen Helmuth* for a Special Use for a home workshop/business for a massage therapy studio on property located on the North side of CR 24, 2,650 ft. East of CR 9, common address of 25517 CR 24 in Concord Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0296-2017*.

There were 29 neighboring property owners notified of this request.

Mr. Miller asked if an additional building is being proposed, and Mr. Godlewski responded no.

Glen Helmuth, 25517 CR 24, Elkhart, came on representing this petition along with his wife, Amy Helmuth. He continued stated he added his wife to the deed after this petition was filed, and he is in favor of her business.

Amy Helmuth came on for this petition and introduced her business, Revived Therapy. She stated she is certified and licensed in massage therapy, and her business will be run from an existing outbuilding. She explained messages will be by appointment only, and she would like to only have around 15 clients a week. Mr. Lyon asked the hours of operation, and Mrs. Helmuth responded predominantly between 8:30 A.M. and 5 P.M. Mr. Miller asked about signs. Mrs. Helmuth responded she has a small sign on the building to show people where to go, but she does not plan to have any in front of the property.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Denny Lyon, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a massage therapy studio be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 4/27/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

8. The application of *Harlen M. & Annetta M. Shirk (Land Contract Holders) & Marlin M. & Berneice R. Shirk (Land Contract Purchasers)* for an amendment to an existing Special Use to amend the site plan on property located on the Northwest corner of CR 32 & CR 13, common address of 24009 CR 32 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0292-2017*.

There were 15 neighboring property owners notified of this request.

Harlen Shirk, 62757 CR 13, was present representing this petition and pointed out his residence on the North end of the farm. He stated his son resides in the farm house and runs the produce stand. He explained he cares for the greenhouse along with his wife. He stated they would like to move the produce stand closer to the greenhouses. Mr. Hesser asked the produce stand's current and proposed location, and Mr. Shirk pointed out the locations on the aerial. Mr. Atha asked, if the existing structure will be moved, and Mr. Shirk responded a new stand will be constructed. He also added a slope from the produce stand to the greenhouses will be filled in to make it easier on their elderly clients. He continued saying people typically park close to the greenhouse and then walk up to the produce stand to check out. Mr. Hesser clarified the existing stand will be removed. Mr. Lyon asked if the existing parking is adequate, and Mr. Shirk responded the greenhouse closest to the road will be moved back to allow room for more parking. He went on to say people will then be able to pull out safely without backing onto the road. Mr. Shirk stated he moved to this property in 1982 and in 1983 sold produce off of a table in the front yard. He added his daughter-in-law is concerned about traffic going through their property but moving the greenhouse should alleviate that issue. Mr. Miller mentioned traffic travels quickly on that road, and he believes the proposed improvements will help lessen the danger of backing out.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Denny Lyon, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use to amend the site plan be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 4/27/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

9. The application of *Esteban Sr. & Maria R. Martinez (Buyers) & Traco LLC C/O Karla Ruelas (Seller)* for a Special Use for warehousing and storing of RVs and transport on property located on the North side of CR 26, 1,720 ft. East of CR 9, in Concord Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0340-2017*.

There were 10 neighboring property owners notified of this request.



Mr. Godlewski stated the restriction of 24 RVs for Commitment #2 did not come from a particular method. However, he explained Staff is attempting to establish a ratio based on lot size. Mr. Miller clarified the petitioner did not specifically ask for 24 RVs.

Antonia Alba was present on behalf of Reyes Transport, the company wanting to store RVs on this property. Estaban and Maria Martinez, 26511 CR 26, were also present for this request translated by Mrs. Alba. Mrs. Alba stated Mr. and Mrs. Martinez would like to widen the existing driveway to keep the road clear. She continued saying they wanted approval from the Board before continuing to improve the property. She stated the first parking section is gravel, and they plan to also put gravel down in the second section. Mrs. Alba stressed this location is set away from other transport companies in the area. Mr. Miller clarified this request is not for personal storage, and he stressed trailers will only be dropped off, stored, and delivered from this property. Mr. Lyon asked if Reyes Transport will deliver the trailers, and Mrs. Alba responded yes. She added the last week of each month is busy, because the trailers must be out of the factory by midnight on the last day of the month. Mr. Miller asked, if they agree with Staff's recommendation of 24 RVs. Mrs. Alba responded they often have more, and she requested approval for 99 RVs. Mr. Miller noted 99 is a large increase from 24. Mrs. Alba explained the number of RVs stored on this site varies depending on the producers' slow and busy times. She then submitted a copy of the new site plan showing 99 RVs [Attached to file as Petitioner's Exhibit #1]. Mr. Hesser asked which site plan the Staff Report refers to, and it was found to be the site plan submitted on May 10, 2017. Mr. Hesser asked, if the units on the submitted site plan are drawn to scale, and Mr. Miller clarified the trailers will not be motorized. Mrs. Alba stated drivers are not allowed to linger in the yard, and the existing building is not used for the transport company. Mr. Miller again asked, if the units on the site plan are drawn to scale, and she responded it shows exactly where they plan to park the RVs. She then submitted a copy of the dimensions for the site plan to the Board [Attached to file as Petitioner's Exhibit #2]. Mr. Atha asked, if the parking areas will be gravel, and Mrs. Alba responded gravel is currently being place on those areas. He also asked about the creek, which appears to go through the property, and he stressed he does not want mud running into the creek. Mrs. Alba stated no RVs will be stored close to the creek. Mr. Lyon asked, if the petitioners spoke to any of their neighbors, and she responded no. He then mentioned someone filed a complaint against this property. Mrs. Alba mentioned the neighbors were not outside when they were on the property, and she offered to talk to them. She also added the property is fenced in and gated. Mr. Atha asked what area is fenced, and Mrs. Alba responded the entire property.

Kieran Newman, 25594 CR 26, was present representing Mark Cregier the owner of the property she has rented for five years. She then pointed out his property on the aerial, across the road from the subject property. She stated this request could be good for the neighborhood, because she believes people coming and going from the property will provide added security. She also added in her opinion it actually slows down traffic on their road. She then added Mr. Cregier is concerned approval of this petition will affect his property value. Mr. Godlewski stated property value is subjective.

Lisa Arendt, 25650 CR 24, Elkhart, came on in remonstrance and pointed out her property, which backs up to the subject property. Mrs. Arendt asked, if a residence is on the property. She also added the property does not have a fence in the front, and the gate is not always locked. She continued saying she is concerned, because she does not know what is

taking place on the property. Mr. Miller pointed out the building in question on the aerial, and he stated the property owners can address the use of the building. Mrs. Arendt added she is worried due to CR 26 being a very busy road, and the petitioners wanting to widen their drive. She also asked about RV repairs taking place on this property, and she mentioned the jump from 24 to 99 trailers is concerning. She stressed approval could set a precedence for transport/storage areas in an A-1 zones. She went on to say she believes this request is a slippery slope as it started at 24 RVs and has now risen to 99. Mrs. Arendt asked, if this situation would have been addressed without the complaint filed on May 2, 2017. She also questioned who will monitor the number of RVs on the property, and Mr. Miller responded the neighbors. She then asked how she can monitor the property without trespassing. Mr. Miller stressed staff will not monitor the property, and Mrs. Arendt clarified enforcement of the restriction is complaint driven. Mr. Miller stated, if the Board approves this petition for 24 and 99 trailers end up on the property, a complaint would need to be filed for action to be pursued. Mrs. Arendt stated she does not feel she can legally go onto this property to count the trailers. She continued saying she owns ten acres, which back up to this property, and she would not want people trespassing on her property. She mentioned the petition previously heard for a massage parlor and asked why parking and number of employees are not concerns for this petition. She explained she is worried trailers moving around will affect the wetland in this area. Mrs. Arendt stated denial may be a hardship to the property owners, but she asked, if this will be the best use of this property. Mr. Hesser asked the location of her property, and she pointed it out on the aerial.

Sue Fabion, 25584 CR 24, Elkhart, came on in remonstrance and pointed out her property, which also backs up to the subject property. Mrs. Fabion stated she is concerned, because they were not aware of this operation until several RVs were parked there. She continued saying they purchased their property two years ago because of the natural, wooded area. She stressed she agrees with the Arendts' concerns, and she questioned what this property will turn into with approval. She also mentioned suspicious rooster activity takes place on the property, and she pointed out guard dogs bark continuously. She went on to say she understands needing dogs for security, but they have become a nuisance. Mrs. Fabion asked about lighting on the property. She added they worry their property value will decrease with approval of this request. She stressed this is a residential area, and they were not aware a business could go in here.

Mrs. Alba came back on to address some of the remonstrators' concerns. Mr. Miller questioned the use of the existing building. Mrs. Alba responded the property owners' use it to store the tools used to keep the yard clean. She also added all drivers are required to sign a contract prohibiting them from lingering in the yard. She stated the property does not have a residence, and Mr. Miller clarified the petitioners do not live on site. Mr. Hesser asked about animals on the property, and Mrs. Alba responded they do not have any. Mr. Miller asked the petitioners plans for lighting, and she responded they were wondering what Staff recommends. She stressed they do not want to be a nuisance or cause damage to the neighboring property owners. She added all of the drivers pass background checks. Mr. Miller asked Staff, if lighting affects this request, and Mr. Godlewski responded yes when it is not properly shielded. He stressed Staff needs to ensure lighting is shielded and directed on site. Mr. Lyon asked, if staff mandates the number of lights, and Mr. Godlewski responded no. Mrs. Alba suggested motion activated lights be installed, and she asked how many watts each light should be. Mr. Hesser

pointed out the site plan does not show any lighting, and Mr. Godlewski stated lighting requires some review from Staff. Mr. Hesser also questioned an area, which appeared to be wooded, and Mr. Godlewski clarified it is a marshy area. He continued asking, if trailers will be parked in that area, and Mrs. Alba stressed they will not be parked on soft ground. She added she takes inventory and arranged the trailers in areas where they can be safely parked. Mr. Hesser clarified the parking areas will be covered with gravel. Mr. Lyon asked, if the property has room for 99 RVs, and she responded yes. She added the drive needs to be widened to make room for two lanes. Mr. Miller asked, if RVs will be repaired on site, and she responded no. She stressed trailers will be stored and rotated in and out every month. Mr. Atha asked, if the West section of the property is considered a wetland, and Mr. Godlewski responded it is close, if not already classified as wetland. Mr. Atha also asked about wildlife in the marsh, and Antonia responded she has only seen rabbits. Mr. Hesser asked Staff for comments on the revised site plan and the requested quantity of trailers. Mr. Godlewski responded the new site plan appears to be closer to scale, but Staff considered a smaller amount of trailers when making a recommendation. Mr. Miller stated he believes 24 trailers could easily be on stored on this property. However, he finds 99 RVs to be concerning, and he would like to see a revised site plan showing parking, lighting, fencing, and road entrance. Mr. Godlewski stated he believes highway will require a commercial drive, and he mentioned the property currently contains over 100 RVs. He continued saying the Board has approved similar request for a smaller number of trailers, and he stressed Staff has not yet set a standard on the number of RVs allowed. Mr. Lyon asked the acreage, and Mrs. Alba responded 15 acres. Mr. Hesser stated the Staff Report has the property at 12.4 acres. She mentioned the petitioners also own two acres adjoining this property.

Robert Rogers, 25609 CR 24, was present in remonstrance and stated his property does not adjoin the subject property. Mr. Rogers continued saying he has called the Sheriff on the petitioners due to their loud parties. He stressed he can hear their music at his residence, and he wondered if approval of this petition will end that. Mr. Hesser stated that issue will need to be resolved with the petitioner.

Mrs. Alba came back on and clarified the party was the petitioners' family gathering. Mr. Miller asked what property the family gathering took place on, and she responded at the storage building on the subject property. She continued saying the transport company will not use this location for parties.

The public hearing was closed at this time.

Mr. Miller stated he is comfortable approving this petition for 24 RVs but not 99. He continued saying to consider approving this request he would need a revised site plan showing the parking lot/road entrance and asked about approving this request with the condition that a revised site plan be submitted. Attorney Kolbus stressed the petitioners do not have a detailed plan for this operation, and he mentioned the petitioner made comments about waiting for Staff's recommendations before making decisions. He continued saying he does not believe the Board can act on this request before a revised site plan is submitted. He then suggested adding a time restriction, and Mr. Miller mentioned approving this petition for two years. He asked, if the Board should approve this request based on Staff approval of the revised site plan, or deny it and the petition be brought back. Mr. Hesser suggested the petition be tabled, and he believes the Board needs to set the number of RVs allowed before granting the request. Mr. Lyon mentioned he believes the Board should see the revised site plan. Mr. Hesser asked when the site plan

needs to be submitted in order to be heard at the next meeting, and Mr. Godlewski responded within two weeks. Mr. Miller stated during that time the operation does not have to stop. Mr. Hesser asked the petitioner to provide a revised, detailed site plan. Mr. Godlewski stressed it must be to scale, show the property boundaries/wetland, lighting, proposed drive, etc. He stated the site plan submitted during the hearing is better, but it does not show everything the Board needs to see. Mrs. Alba stated she did not include measurements on the site plan, because she believed it would make it cluttered. Mr. Godlewski responded the new site plan must show measurements, and he suggested she use a larger sheet of paper. Mr. Hesser stated the site plan must include the driveways and their widths. Mrs. Alba asked, if pictures should be submitted, and Mr. Godlewski responded no. Mr. Hesser added any lighting also needs to be shown. Mr. Miller stressed fencing, lighting, and road entrance are the three main things needed on the revised site plan. He continued saying the storage area, gravel area, and wetland should also be included. Mr. Atha mentioned the storage area and wetland should not overlap. Mrs. Alba stated RVs will not be stored on the wetland, because the RVs could sink into the ground. Mr. Atha stressed the submitted site plan does not show a clear separation between the wetlands and storage area. Mrs. Alba stated the wetland starts behind the second storage area. Mr. Hesser stressed a revised site plan must be submitted within two weeks from this meeting in order to be heard next month. Mr. Godlewski stated by June 30, 2017, at the latest, and he stated the sooner the better.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Table, **Moved by** Roger Miller, **Seconded by** Denny Lyon that this request for a Special Use for warehousing and storing of RVs and transport be tabled indefinitely to allow the petitioner the petitioner time to submit a revised site plan.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

Mr. Godlewski stated the neighboring property owners will be re-notified when this request returns to the Board.

10. The application of **Robert G. Ott & Makenzie K. Bell** for a Special Use for an agricultural use for the keeping of 11 chickens on a tract of land containing less than three acres located on the South side of CR 40, 1,850 ft. West of CR 27, common address of 18074 CR 40 in Elkhart Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0366-2017*.

There were 24 neighboring property owners notified of this request.

Makenzie Bell, 18074 CR 40, Goshen, and Robert Ott were present for this request. Mr. Miller noted the site plan shows an area labeled “to move coop around” and asked, if the coop will be small and moveable. Mr. Ott stated it will be moved around in order to give the chickens fresh grass. Mr. Hesser asked if the area will be fenced in, and Miss Bell stated the entire backyard is fenced. Mr. Atha asked how manure will be disposed. Miss Bell responded it will be kept in a pile, and Mr. Ott added they will use it on their garden.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of 11 chickens on a tract of land containing less than three acres be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 5/15/17) and as represented in the Special Use application.
2. Limited to 12 chickens at any one time, no roosters.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

11. The application of *Ethan W. Zimmerman* for a Special Use for an agri-business on property located on the West side of SR 19, 2,700 ft. South of CR 44, common address of 68547 SR 19 in Locke Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0355-2017*.

There were four neighboring property owners notified of this request.

Ethan Zimmerman, 25227 CR 138, Goshen, was present for this request. Mr. Miller asked what he would like permission to do. Mr. Zimmerman stated his tenant is renting a building to store minerals. He continued saying their products are kept either in bags or buckets on pallets, and he explained the warehouse stocks local dealers. Mr. Miller asked, if he lives on this property, and Mr. Zimmerman responded no. He also asked, if the same people rent both the house and the storage building. Mr. Atha clarified the house and storage building are rented by two different people. Mr. Miller questioned truck traffic, and Mr. Zimmerman stated he would estimate six or seven deliveries a week. Mr. Hesser asked about semi deliveries, and Attorney Kolbus pointed out the questionnaire addresses that. Mr. Hesser clarified the property has sufficient room for a semi to turn around, and Mr. Zimmerman pointed out the turn-around area.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agri-business be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 5/12/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

***\*\*It should be noted that Mr. Hesser recused himself and stepped down\*\****

12. The application of ***Concord Community Schools Corporation & Indiana National Bank as the Trustee*** for an amendment to an existing Special Use to allow for a temporary classroom on property located on the North side of Mishawaka Rd., 837 ft. West of CR 9, common address of 230 Mishawaka Rd. in Concord Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0337-2017*.

There were 38 neighboring property owners notified of this request.

Mr. Godlewski stated this request is very similar to previous petitions for classrooms.

Nate Koontz, Director of Facilities for Concord Schools, 230 W. Mishawaka Rd., Elkhart, was present representing this petition. Mr. Koontz stated the school would like to set up a four classroom modular on the North side of the property. He continued saying they previously had two portable classrooms on site, and he added their goal is to have the modular in place by the start of next school year. He stressed the school is rapidly growing and projected to keep growing. Mr. Atha clarified the temporary building will be used until something permanent can be constructed. Mr. Koontz stated the school is looking at ways to stop growth by capping the student population or cash transfers, but they need a temporary fix. Mr. Lyon asked how long the school plans to keep the units on site, and Mr. Koontz responded around five years. He continued saying they will also continue working on a permanent plan for the future. Mr. Lyon noted Elkhart City gave the school a positive recommendation. Mr. Koontz mentioned the easiest way to place the units on the property is to go through the well field, and City water has given them permission.

Morton Avance, 57981 Ball Dr., Elkhart, came on in favor of this petition. Mr. Avance stated his back yard faces the schools parking lot, and he requested the port-a-johns and skids be moved before the holiday. He then stressed he is in favor of the addition. Mr. Miller suggested Mr. Avance speak with the facilities manager.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Joe Atha, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these,

further moved that this request for an amendment to an existing Special Use to allow for a temporary classroom be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 5/9/17) and as represented in the Special Use application.

**Vote:** Motion passed (**summary:** Yes = 3, No = 0, Abstain = 1).

**Yes:** Joe Atha, Roger Miller, Denny Lyon.

**Abstain:** Randy Hesser.

***\*\*It should be noted that Mr. Hesser returned to the Board at this time\*\****

13. The application of **Ryan D. & Katrina J. Schrock** for a Special Use to allow for a ground-mounted solar panel array on property located on the North side of SR 4, 1,850 ft. West of CR 133, common address of 14855 SR 4 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0364-2017*.

There were four neighboring property owners notified of this request.

Betsy Salyer, Solar Energy Systems, 1952 W. Market St., Nappanee, was present representing this request. Mrs. Salyer stated the proposed solar array will be located 15 ft. from the West property line. Mr. Atha asked about neighboring properties, and Mrs. Salyer responded they are all located towards the front of the property. Mr. Atha also pointed out an access road, and she stressed the array will be several feet from that drive.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Joe Atha, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use to allow for a ground-mounted solar panel array be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 5/15/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

14. Mr. Godlewski recognized Duane Burrow as a part-time planner.

15. As a staff item, Mr. Godlewski presented the request to rescind a Special use for Robert & Virginia Grimshaw (20091750). He stated the petitioner feels he no longer needs this Special Use.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that this request for the rescission of a Special use as requested by the petitioner be approved.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

16. The application of *Glen C. & Carol A. Ramer* for a Special Use for a home workshop/business for processing and selling of maple syrup on property located on the West side of CR 21, 2,828 ft. South of CR 146, common address of 69515 CR 21 in Jackson Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0360-2017*.

There were nine neighboring property owners notified of this request.

Mr. Atha mentioned the petitioner previously received approval for a home workshop/business. Mr. Godlewski clarified a lawn furniture business was previously approved, but this request is for the production of maple syrup.

Glen Ramer, 69515 CR 21, New Paris, was present for this petition. Mr. Hesser asked if the lawn furniture business is still in use, and Mr. Ramer responded no. He continued saying they would now like permission to install an evaporator to boil sap into maple syrup and then sell the syrup from their home. Mr. Hesser pointed out the sap shack on the submitted site plan, and Mr. Ramer submitted an updated site plan showing the dimensions and location of the sap building [Attached to file as *Petitioner's Exhibit #1*]. He then explained an existing shed will be taken down, and the remaining concrete pad will be expanded for the new sap building. Mr. Miller asked the petitioner, if he taps trees in the surrounding area, and Mr. Ramer responded within a two mile radius. He also added he spoke to his neighbors, and they are all in favor of this petition. Mr. Atha pointed out the driveway appears to be rounded, and Mr. Lyon clarified it is currently a gravel drive.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for processing and selling of maple syrup be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:



1. Approved in accordance with the revised site plan submitted (dated 6/15/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

17. The application of *Lan Q Lu* for a Special Use for agricultural use for the keeping of chicken on less than three acres on the West side of Orchard Ln., 917 ft. Southwest of CR 115, common address of 58135 Orchard Ln. in Concord Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0363-2017*.

There were 10 neighboring property owners notified of this request.

Mr. Godlewski stated staff received two remonstrance letters, and he submitted the first letter from Susan Stafford, which included pictures of the subject property [*Attached to File as Staff's Exhibit #1*]. He also submitted a letter from Mr. and Mrs. Jacob Hartman [*Attached to File as Staff's Exhibit #2*]. Mr. Lyon asked, if adjoining property owners sent in the remonstrance letters. It was found Susan Stafford is the adjoining neighbor to the North, and Jacob Hartman is the adjoining neighbor to the South.

Lan Lu, 58135 Orchard Ln., Goshen, was present for this request and stated he would like permission to raise chickens. He continued saying the chickens help teach his children responsibility and provide eggs for his family. He added the chicken coop is enclosed with chicken wire. He stressed he tries to keep everyone happy, and he does not have any roosters. Mr. Lu explained in his culture the chicken's head and feet are used to honor their ancestors, and he strives to keep his cultural traditions. He added he would like to teach his children there is more to life than video games. Mr. Hesser asked, if Mr. Lu has talked to his neighbors about this request, and he responded his neighbors have accepted eggs from his chickens. Mr. Miller suggested the neighbors do not like the rooster crowing, and Mr. Lu responded he does not own a rooster. However, he added he does have a turkey, which he plans to butcher for Thanksgiving. Mr. Miller stated one of the remonstrance letters mentions the turkey roamed into their yard. Mr. Lu responded the neighbors have a few friendly dogs, which have come over into his yard. He continued saying the neighbors can talk to him about their concerns, and he will work to make them happy. Mr. Lyon asked, if the coop can be moved further from the river, and he mentioned the site plan shows it is currently 25 ft. from the river. Mr. Lu stated it is actually a little more than 25 ft. from the bank of the river. Mr. Lyon added the neighbors are concerned about the location of the coop, and Mr. Lu responded he is willing to move it. Mr. Atha asked how manure will be disposed, and Mr. Lu stated it is put in a trash bag to be spread over the garden. Mr. Atha asked the location of the garden, and he pointed it out on the aerial. He also pointed out the chicken area and stressed the chickens are locked in the coop every night to protect them from raccoons. He added the county owns the twelve foot strip of land adjoining his property. Mr. Hesser asked why the chicken coop has tarp walls. Mr. Lu stated he uses tarps in the summer to allow a breeze in, but he plans to put up plywood walls for winter. He stressed he did not want to spend money on the coop until he received approval. Mr. Lu then reviewed the materials submitted in remonstrance. He responded to one of the pictures submitted and explained Asians grow a vegetable, which need something to grow up. He continued saying it looks similar to a long zucchini, and it is often sold as a decoration around October. He added

in his culture the plant is eaten, and he stressed it must have something to grow up to prevent it from rotting. Mr. Lu stated their chicken coop burned down about three months ago, which he believes may or may not have been intentional. He went on to say an autistic boy lives in their neighborhood that has been known to get upset, and they try to prevent him from reaching the chickens. He stressed many of the neighborhood kids feed the chickens. Mr. Lu mentioned they are kept locked up in order to keep the children from reaching them without permission.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stressed the Staff recommendation prohibits roosters. Mr. Lyon asked the number of chickens currently on the property, and Mr. Lu request 18 to 24 chickens. Attorney Kolbus mentioned the Staff Report limits them to 12 chickens.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for agricultural use for the keeping of chicken on less than three acres be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 5/15/17) and as represented in the Special Use application.
2. Limited to 12 chickens at any one time, no roosters.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

Mr. Hesser clarified the petitioner is approved for 12 chickens and no roosters. Mr. Miller added he is not approved to have turkeys, and Mr. Lu responded the turkey will be gone by November.

18. The application of *Nathan D. & Melanie A. Schrock* for an amendment to an existing Special Use for warehousing and storing to change the site plan and number of employees on property located on the Northeast corner of CR 50 and St. Joe County Line Rd., 760 ft. South of CR 146, common address of 30951 CR 50 in Locke Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0345-2017*.

There were four neighboring property owners notified of this request.

Nathan Schrock, 30951 CR 50, Nappanee, was present for this petition. Mr. Schrock stated he owns a small plumbing business, and he asked why the staff report lists only two employees. He explained the original petition was approved for two employees, and Mr. Hesser clarified this request is for six employees. Mr. Schrock explained his employees include himself, his father, two sons, daughter, brother, and two additional non-family employees. Mr. Atha mentioned Mr. Schrock listed eight employees. Mr. Miller stated family members living on the

property do not count towards the total number of employees, and Mr. Hesser noted this request is not a home workshop/business. Mr. Godlewski mentioned warehousing/storing request do not limit the number of employees. Mr. Hesser added a home workshop limits outside employees not residents of the property. Attorney Kolbus explained the Board can limit the number of employees. Mr. Godlewski clarified the application and Staff Report do not match. Mr. Hesser stated the Staff Report limits the petition to two outside employees, and Mr. Schrock responded he needs approval for three.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he does not have a problem allowing three outside employees.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for an amendment to an existing Special Use for warehousing and storing to change the site plan and number of employees be approved based on the findings and conclusions of the Board:

1. The Special Use will be consistent with the spirit, purpose and intent of the Zoning Ordinance. This is an existing Special Use.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. Although the request is to allow for three outside employees, there will be no customers coming to the site.
3. The Special Use will substantially serve the public convenience and welfare by providing increased warehousing and storage opportunities for an existing operation.

The following condition was imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 5/11/17) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

***\*\*It should be noted that Mr. Hesser recused himself and stepped down\*\****

19. The application of **Michelle R. Steigmeyer** for an amendment to an existing Special Use for an animal training facility (dogs), (1) to include animal boarding (dog kennel), (2) to add an animal boarding building and runs, (3) to change the location of the proposed animal training building, driveway, (4) add a new sign on property located on the Northeast corner of CR 104 & CR 15, common address of 22465 CR 104 in Osolo Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0274-2017.

There were 19 neighboring property owners notified of this request.

Nick Watkins, 52737 CR 15, Elkhart, was present representing this request and stated he is the facilities operations manager. He pointed out his residence directly across the street from the subject property. He clarified #3 in the description was approved as a staff item last month. He continued saying they would now like permission for a boarding building and a pool. He stated he believes the sign was also previously approved. He stressed people call every day requesting dog boarding. Mr. Atha asked the pool's location, and Mr. Watkins pointed out the current building along with the proposed locations for the new building and pool on the aerial. Mr. Atha also asked the size of the proposed pool.

Fred Ham, Schrock Commercial, 2523 Messick Dr., Goshen, came on for this request. Mr. Ham stated it will be a 15'x30' enclosed, in-ground pool. Mr. Miller asked, if any of the neighbors have been talked to about boarding at this location.

Mr. Watkins stated the owner, Michelle, has talked to several of the neighbors, and no one had an issue with this request. He stated the dogs are extensively trained on barking and keep quiet when outside. He added they also do extensive crate training for barking and whining, which helps keep the dogs quiet inside. He mentioned the old facility had an issue with smell due to not being properly cleaned, and he went on to say three employees will be hired when boarding starts to clean up after the dogs. Mr. Miller asked, if the new building will be hooked into the septic system, and he responded yes. He also added the building will have extra insulation and rubber floors to dampen the noise.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

**Motion:** , **Action:** Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an amendment to an existing Special Use for an animal training facility (dogs), (1) to include animal boarding (dog kennel), (2) to add an animal boarding building and runs, (3) to change the location of the proposed animal training building, driveway, (4) add a new sign be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 4/19/17) and as represented in the Special Use application.

**Vote:** Motion passed (**summary:** Yes = 3, No = 0, Abstain = 1).

**Yes:** Joe Atha, Roger Miller, Denny Lyon.

**Abstain:** Randy Hesser.

***\*\*It should be noted that Mr. Hesser returned to the Board at this time\*\****

20. The application of *Eric L. & Joanna Kay Chupp (Buyers) & AMMF Trustee Corporation as Trustee for Amish Mutual Mortgage Fund (Seller)* for a Special Use for a home workshop/business for a bait and tackle shop and for a Developmental Variance to allow

for the square footage in the accessory structures to exceed the square footage allowed on property located on the West side of CR 29, 440 ft. North of CR 56, common address of 72643 CR 29 in Benton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0368-2017*.

There were eight neighboring property owners notified of this request.

Eric Chupp, 72643 CR 29, was present for this petition and stated he would like to open a bait and tackle shop. He stated he currently runs the business from a 14'x20' area in his shop, which is located towards the back of the property. He continued saying he would like to construct an 18'x20' moveable building in the front of his property to give the business space to grow. He stressed his goal is to open a store in town, but his business is not big enough yet. He added he would like to move the building closer to the road to be more convenient for his customers. He also stated his wife and children run the store while he is at work. Mr. Lyon asked the required setback for portable buildings. Mr. Godlewski stated buildings over 120 sq. ft. cannot be portable, and he added it must be properly tied down. Mr. Chupp stated he will be using mobile home anchors, because he can use his uncle's machine to anchor each corner of the building. Mr. Hesser asked Staff about the requested revised site plan, and Mr. Godlewski responded Staff would like a more detailed site plan. Mr. Godlewski recognized the second page of the Staff Report was not read. Mr. Hesser noted a condition requests a revised site plan, but a commitment references the submitted site plan. Mr. Godlewski then read the second page of the Staff Report. Mr. Hesser asked if the petitioner understands what is needed on the revised site plan, and he clarified it should include the future structure. Mr. Schrock stated he cannot afford to purchase a building in town at this point, but he hopes to move off of this property in two years.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he is okay with staff approval of the revised site plan.

The Board examined said request, and after due consideration and deliberation:

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a bait and tackle shop be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. Petitioner must provide a more detailed site plan, including the future permanent structure.

The following commitments were imposed:

1. Approved in accordance with the site plan to be submitted for staff approval and as represented in the Special Use application.
2. Sign is limited to 4 sq. ft.

Further, the motion also included that a Developmental Variance to allow for the square footage in the accessory structures to exceed the square footage allowed be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within 180 calendar days from the date of the grant and construction work completed within one year from the date of the issuance of the Building Permit (where required).
2. Approved in accordance with the site plan to be submitted for staff approval and as represented in the Developmental Variance application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).

**Yes:** Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

22. The staff item for Robert & Virginia Grimshaw (20091750) was previously heard as item #15 on page 15.

23. The meeting was adjourned at 11:27 A.M.

Respectfully submitted,

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Laura Gilbert, Recording Secretary

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Randy Hesser, Chairman

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Tony Campanello, Secretary