

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 18TH DAY OF JANUARY 2018 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 Vice-Chairperson, Roger Miller. Staff members present were: Chris Godlewski, Plan Director; Matt Shively, Planner; Mae Kratzer, Planner; Duane Burrow; Planner, Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon.

2. A motion was made and seconded (*Lyon/Atha*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21th day of December 2017 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Campanello/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.

****It should be noted Mr. Hesser arrives at this time****

4. A motion was made and seconded (*Lyon/Atha*) to elect the following Board members: Mr. Lyon as Hearing Officer, Mr. Hesser as Chairman, Mr. Miller as Vice Chairman, and Mr. Campanello as Secretary.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

5. The application of ***Jerry L. & Jennifer K. Yoder*** for a Special Use for a home workshop/business for a construction business on property located on the South side of SR 4, 1,655 ft. West of CR 127, common address of 17280 SR 4 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-0925-2017*.

There were 10 neighboring property owners notified of this request.

Jerry Yoder, 17280 SR 4, Goshen, was present representing this petition. Mr. Yoder stated he would like to build a shop for storage. He continued saying it will occasionally be used to assemble pieces for the job site. Mr. Yoder submitted a revised site plan [*Attached to file as Petitioner Exhibit #1*]. Mr. Yoder explained they found a discrepancy in the tile location, and the building had to be moved. Mr. Atha asked if semis deliver to the property, and Mr. Yoder responded no. Mr. Atha stated the Board typically makes sure the property has room for a semi turn-around, and Mr. Yoder stated he has plenty of room. He added his truck pulls a trailer that he is able to turn around.

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** Tony Campanello 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 construction 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 1/18/18) and as represented in the Special Use application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

6. The application of *Alyssa M. Williams* for a Special Use for an agricultural use for the keeping of chickens on a tract of land containing less than three acres located on the West side of Frances Ave., 280 ft. South of Desmond Ave., East of CR 9, common address of 57705 Frances Ave. 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-0932-2017*.

There were 20 neighboring property owners notified of this request.

Alyssa Williams, 57705 Frances Avenue, Elkhart, came on for this petition. Mrs. Williams stated she would like permission to keep her chickens. She explained they treat them like pets, and the eggs are given to friends and family. Mr. Campanello asked how she disposes of waste, and she responded they take it to her father's compost pile. She then submitted pictures of the coop [Attached to file as *Petitioner Exhibit #1*]. Mr. Campanello also asked the number of chickens she owns, and she responded eight. Mr. Lyon clarified the property has 150 ft. road frontage. Mr. Campanello asked if any complaints have been received from her neighbors, and Mrs. Williams responded no. She stressed their chickens are friendly and their neighbors enjoy petting them.

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** Tony Campanello, **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 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 12/18/17) and as represented in the Special Use application.
2. Limited to a maximum of twelve (12) chickens, no roosters.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

7. The application of *Howard Lee & Loretta J. Miller* for an amendment to an existing Special Use for a home workshop/business for a woodworking business to add property and for a 2,160 sq. ft. Developmental Variance to allow for 9,296 sq. ft. over prior approval to exceed the square footage allowed on property located on the North side of CR 150, 1,080 ft. West of CR 100, common address of 30695 CR 150 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-0933-2017*.

There were six neighboring property owners notified of this request.

Howard Miller, 30695 CR 150, Nappanee, was present representing this petition, and pointed out his house, barn, and shop on the aerial. He explained the shop is currently used for storage. However, his son plans to keep horses in that building, causing a need for more storage room. He added he would also like to store shelving inside the building to help clean up his property. Mr. Howard Miller stated he was told he needed a Special Use Amendment, when he came in for the building permit. He pointed out the finished sheds are now stored in a different location. He stressed only four or five sheds are kept outside during the summer. He clarified the aerial was taken during the winter when several sheds were kept on the property, because he was unable to deliver them. He explained he only temporarily stores sheds on his property until the snow melts, and he can move them. He also stressed his building is not large enough to store everything inside. Mr. Atha clarified Mr. Howard Miller runs a shed business from his property. Mr. Atha questioned the sheds stored on the neighboring property. Mr. Howard Miller explained a few sheds are kept on his brother-in-laws field, but he can move them. He added they will be moved once spring starts. Mr. Hesser mentioned the Staff Report does not deal with the Developmental Variance. Mr. Godlewski responded it was missed, but the recommendation for approval applies to both requests.

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** Tony Campanello, **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 for a home workshop/business for a woodworking business to add property and for a 2,160 sq. ft. Developmental Variance to allow for 9,296 sq. ft. over prior approval to exceed the square footage allowed 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 12/18/17) and as represented in the Special Use Amendment application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

8. As a staff item, Mr. Godlewski presented the request for a minor change to a site plan for an existing Developmental Variance for *Edwin J. & Lydia M. Steury Joint Revocable Living Trust* (19879EIDorado Drive-130610-1). Mr. Godlewski asked Mr. Hesser if he has a conflict with this request. Mr. Hesser explained the Steury's were his clients 20 years ago, but he has not worked with them recently. Attorney Kolbus pointed out the request was emailed to the Board members. Mr. Godlewski explained the measurements on the approved site plan were incorrect, and this request is to approve the updated setbacks. He continued saying staff recommends approval as a minor change.

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 approve the request as a minor change.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

9. Mr. Godlewski presented the Certification of Residency for Mr. Hesser. He explained Mr. Hesser was appointed to another four year term by the Commissioners. The form was signed and submitted for the record.

10. The application of *Thomas & Karen Grohalski* for a Use Variance to allow for the construction of an accessory structure without a residence and for a 1 ft. Developmental Variance to allow for the construction of an accessory structure 6 ft. from the North and South property lines (Ordinance requires 7 ft.) located on the East side of Maplewood Dr., 1,465 ft. North of Lake Dr., West of CR 109, in Osolo Township, zoned R-2, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0917-2017*.

There were 17 neighboring property owners notified of this request.

Mr. Godlewski mentioned the Developmental Variance was not addressed, but Staff recommends approval for both. Mr. Hesser mentioned the Staff Report does not recommend both parcels be tied together on the same deed.

Thomas Grohalski, 51243 Maplewood Dr., Elkhart, was present representing this petition. Mr. Grohalski pointed out his residence and the vacant parcel on the aerial. He explained he plans to construct a pole barn on the vacant parcel, to replace a small shed. Mr. Campanello asked if any residences were constructed on that side of the road. Mr. Grohalski responded most parcels have pole barns, but a few are residences.

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 Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of an accessory structure without a residence and for a 1 ft. Developmental Variance to allow for the construction of an accessory structure 6 ft. from the North and South property lines (Ordinance requires 7 ft.) 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 12/11/17) and as represented in the Use Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

11. The application of **Raymond H. Helmuth** for a Use Variance to allow for the construction of a second dwelling on a parcel located on the West side of CR 43, 280 ft. North of CR 2, common address of 50925 CR 43 in York Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0913-2017*.

There were eight neighboring property owners notified of this request.

Dave Miller, 60976 CR 33, Goshen, was present representing petitioners. Mr. Dave Miller clarified the owners are allowed to live in the current residence while the new one is constructed. Mr. Godlewski explained the conditions help ensure a demolition permit is pulled for the old residence once the new one is occupied. Mr. Hesser asked how Mr. Dave Miller is affiliated with the owners, and he responded he is the contractor.

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** 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 Use Variance to allow for the construction of a second dwelling on a parcel was 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. A demolition permit must be taken out within 6 months from the grant of the proposal and demolition work must be completed within 3 months of receiving the Certificate of Occupancy for the new residence.

The following commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 12/8/17) and as represented in the Use Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

12. Mr. Hesser stated the Board has discussed changing the Ordinance to eliminate the need for Use Variance requests like the last one. He stressed if the owners plan to demo the old residence, he believes Staff can handle the request. He added a time limit should still be imposed on the demolition. Mr. Godlewski stated Staff is finishing the Subdivision Ordinance changes, and then the Zoning Ordinance changes will be finalized. He continued saying the changes will be presented to the Board when they are ready. Mr. Miller asked if Staff will also handle petitions when the residence is not demoed on time. Mr. Godlewski responded in the past that was a problem, but Staff will monitor the situation. Mr. Miller asked what action would be taken if the owner request six months for the demo rather than three. Mr. Godlewski stated he believes that would be considered a Developmental Variance. Mr. Campanello asked if Staff could approve an extension in that situation. Mr. Godlewski stressed Staff can not extend the time period past what is listed in Ordinance. Mr. Hesser mentioned the Board recently approved a request for a longer time period than typically allowed, and he believes it is okay to bring those requests before the Board. However, he continued requests within the time period allowed should be approved by Staff. Attorney Kolbus suggested the Ordinance be set up to allow three months for the demolition after the Certificate of Occupancy is issued, and Staff should be given the ability to add an additional three to six months to that time frame. He added Staff can extend the time period, if it is spelled out in the Ordinance. Mr. Godlewski mentioned every situation is different.

13. The Staff item for Edwin J. Stuery & Lydia M. Steury Joint Revocable Trust (19879EIDorado Drive-130610-1) was previously heard as item #8 on page 4.

14. The Certification of Residency for Randy Hesser was previously heard as Item #9 on page 4.

15. The meeting was adjourned at 9:11 a.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary