

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 15th DAY OF AUGUST 2019 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; Jason Auvil, Zoning Administrator; Mae Kratzer, Planner; Doug Powers, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

2. A motion was made and seconded (*Atha/Lyon*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18th day of July 2019 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Lyon/Miller*) 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 *Siloam Mennonite Fellowship* for an Amendment to an existing Special Use for a church to allow for an electronic message center within 300 ft. of an existing residence and 180 sq. ft. in area (Ordinance allows a maximum of 32 sq. ft.) on property located on the Southeast corner of CR 35 & SR 4, common address of 61616 CR 35 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0442-2019*.

There were 10 neighboring property owners notified of this request.

Todd Lehman, Signtech Sign Services, 1508 Bashor Rd., Goshen, was present representing the petitioners. He stated the church has a hard time promoting all of their activities with their current sign. He continued saying an electronic message center will be a great tool to keep the public informed. Mr. Miller asked if the sign dims in the evening, and Mr. Lehman responded it is mandatory and government regulated that electronic message centers dim at night. He continued saying it dims to about ¼ of its brightness at night. Mr. Hesser clarified the electronic message center will be in the same location as the existing sign, and Mr. Lehman responded everything is identical except for the message portion.

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** 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 an Amendment to an existing Special Use for a church to allow for an

electronic message center within 300 ft. of an existing residence and 180 sq. ft. in area (Ordinance allows a maximum of 32 sq. 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. The request is approved in accordance with the site plan submitted (dated 7/12/19) 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.

5. The application of *Quality Feeds, LLC* for a Special Use for an agri-business for a feed mill on property located on the North side of CR 20, 1,400 ft. East of CR 22, common address of 15459 CR 20 in Middlebury Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0499-2019*.

There were 12 neighboring property owners notified of this request.

Kevin Gingerich, 60145 CR 37, Middlebury, was present for this request. Mr. Miller asked if the existing businesses will remain, and Mr. Gingerich responded the feed mill will replace them. Mr. Hesser questioned their plans for the property being removed from previous approval, and Mr. Gingerich responded it will be sold for a residential use. Mr. Hesser reiterated they plan to operate a feed mill and construct two additional buildings.

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** 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 an agri-business for a feed mill 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. A minor subdivision must be submitted and approved.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/12/19) 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 *James McDonald (Buyer) & Scott M. Barnard (Seller)* for an Amendment to an existing Special Use for warehousing and storing of commercial trucks and trailers to add property located on the East side of Ash Rd., 400 ft. North of Old US 33, in Baugo Township, zoned B-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0497-2019*.

There were 20 neighboring property owners notified of this request.

Harvey Hanson, 1331 Sunset Ct., was present as the realtor representing both the buyer and seller of the property. He explained the request is to add this property to an existing use on the adjoining property, to provide additional parking for equipment during the off-season. Mr. Atha clarified the property currently owned by the petitioner on the aerial, and he noted there will be no residential use on the property. Mr. Hesser mentioned the Staff Report recommends approval in accordance with the site plan dated 7/12/19, but it also request a new site plan be submitted. Mrs. Kratzer responded staff would like a clearer site plan with more details. Mr. Hesser suggested the commitment be reworded to state, "approved in accordance with the revised site plan to be submitted." Mr. Hanson stated the property is vacant, and Mr. Hesser stressed the site plan needs to show the storage area. Mr. Hanson responded they plan to use the entire property for storage. Mr. Campanello added a detailed site plan is needed showing their plans. Mr. Hanson responded construction equipment will be parked on the property overnight, and it will all be fenced in. Mrs. Kratzer responded staff will work with the petitioner in regards to the revised site plan. Attorney Kolbus mentioned the reference to the site plan submitted 7/12/19 should be removed from the proposed commitment.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser mentioned the property to the north previously received approval for the proposed use, but a revised site plan is needed. He continued saying the revised site plan should include entrances, exits, and the storage layout.

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 warehousing and storing of commercial trucks and trailers to add property 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. A revised site plan must be submitted for staff approval.

The following commitment was imposed:

1. The request is approved in accordance with the site plan to be submitted for staff approval 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.

7. The application of *Missionary Church North Central District, Inc.* for an Amendment to an existing Special Use for a church to allow for a new maintenance building and to add property located on the Northwest corner of SR 19 & CR 50 (Main St.), common address of 70417 SR 19 in Locke Township, zoned A-1, B-2, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0494-2019*.

There were 15 neighboring property owners notified of this request.

Lamar Slabaugh, 70417 SR 19, was present for this request. Mr. Miller clarified the request is to construct a new building on the property. Mr. Slabaugh explained their available storage is running low, and they need to vacate their current maintenance building. He continued saying they would like to construct a new maintenance building for a workshop and vehicle storage. Mr. Hesser pointed out the proposed location for the new building on the aerial. He added the Staff Report suggests that all parcels be combined onto a single deed. Mr. Slabaugh explained they decided to include all property owned by the church onto the Special Use for any future development. Mr. Lyon asked if the lane behind the church is a county road, and Mr. Slabaugh responded it is a private road back to their pavilion. Mr. Hesser pointed out it is labeled as Rolling View Ln.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if combining the parcels onto one deed should be listed as a condition or commitment, and Attorney Kolbus responded condition. Mr. Miller agreed with adding a condition requiring the parcels be combined.

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 a church to allow for a new maintenance building and to add property 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. All associated parcels must be combined onto one recorded deed.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/11/19) 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. The application of *Town of Middlebury (Lessor) & Elkhart County Public Safety Communications (Lessee)* for a Special Use for a wireless communications facility on property located on the West side of Eugene Dr., 280 ft. East of Mill St., South of Spring St., East of Main St. (SR 13), common address of 516 Eugene Dr. in Middlebury Township, zoned R-1, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0493-2019*.

There were 19 neighboring property owners notified of this request.

Egbert Dijkstra, Director of Elkhart County 911 also known as PSCC, 22286 CR 28, Goshen, was present for this request. Mr. Dijkstra stated he would like to express the importance

of the proposed tower at Eugene Dr. He explained Elkhart County 911 provides 911 and dispatch services to 38 public service agencies within Elkhart County. He continued saying they receive around 320,000 phone calls a year and dispatch police, fire, and EMS over 170,000 times annually. He mentioned they currently operate on a VHF radio system. However, he went on to say about seven years ago the FCC cut the VHF bandwidth in half resulting in a degradation of their radio signal. He stated they then began looking for a solution. He added a statewide 800 megahertz radio system was put into place after 2001, but it was not as reliable as the VHF system. Mr. Dijkstra noted an upgrade of the 800 megahertz radio system was completed in 2018, which greatly increased the reliability of the system. He continued saying they then decided to migrate to the 800 megahertz system, which offers interoperability between all public agency systems within the state of Indiana. He explained in order for the system to accommodate all of the police, fire, and EMS agencies in Elkhart County they asked Motorola to complete a coverage study. He stressed the state currently has one tower site within the county off of CR 26 near CR 29, but it only provides limited coverage throughout the county. He noted the Motorola study determined the need for a total of five sites county-wide in a simulcast system. He continued saying antennas for the system will be installed on existing structures located at CR 17 & the Toll Rd., Nappanee, and Goshen. He added the fifth site needs to be located in Middlebury. He explained radio coverage has historically been poor in the Northeast part of the county mainly due to the terrain. He stressed placing a 180 ft. mono-pole tower (190 ft. with the lightning rod), which falls under 200 ft. and does not require lighting, would provide the best radio coverage in the area. He went on to say this will benefit Middlebury police, fire, and EMS by increasing the safety of the first responders and general public in addition to benefitting the area around Middlebury. Mr. Dijkstra added the proposed tower is part of a larger project that will benefit all first responders within the county, towns, and cities, since this is a combined project. He explained communication between the county communication center and agencies responding to emergency and non-emergency calls in the northeastern part of the county will be affected without a tower in Middlebury. He stressed they appreciate the Town of Middlebury working with them and offering this location, which will benefit the town and the entire county. He stated Amy Smith from PRS Wireless, the company building the system with Motorola is also present to answer any questions, along with Mary Cripe, Town Manager of Middlebury. Mr. Campanello asked if the proposed tower will be collapsible.

Amy Smith, 57678 CR 3, Elkhart, was present for this request. Mrs. Smith explained the tower is a mono-pole structure that is designed to collapse into itself. She added the proposed location is more than 180 ft. from any structure.

Diane Robinson, 503 Eugene Dr., an adjoining property owner came on to ask questions. She questioned noise, traffic, lights, etc. Mr. Miller asked if she is in favor of the proposed tower, and she responded she would like to know their plan for the property. Mr. Hesser explained the petitioner can respond to her questions.

Amy Smith came back on to address Mrs. Robinson's concerns. She explained the tower is not required to have a light due to its location and height under 200 ft. She stressed no bright lights will be on the premises, because the FAA does not require any in this situation. She then addressed traffic, and the only traffic after construction will be for maintenance of the radio equipment or tower, which will be minimal. She stated the equipment will be within a concrete

shelter at the facility, generating very little noise. She continued saying a generator will kick on, if the power goes out, which will create some noise.

Mr. Miller asked who will own the tower. Mr. Dijkstra came on to respond and stated the county will be the owner.

Mr. Campanello clarified with the remonstrator's questions were answered, and she responded yes.

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** 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 wireless communications facility 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. The request is approved in accordance with the site plan submitted (dated 7/11/19) 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.

9. The application of *Steven Lehman* for an Amendment to an existing Special Use for a school to add property and relocate the agricultural building located on the North side of CR 4, 3,200 ft. West of CR 39, common address of 12593 CR 4 in York Township, zoned A-1, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0492-2019*.

There were eight neighboring property owners notified of this request.

Steven Lehman, 11522 SR 120, Middlebury, was present for this request. Mr. Hesser request an aerial of the parcel, and he questioned the location of the current buildings. Mr. Lehman explained the proposed location of the barn moved to the right side of the property, and he pointed out its approved and proposed location on the aerial. Mr. Hesser pointed out the barn has not been constructed, and Mr. Lehman responded it is currently being constructed. Mr. Hesser mentioned the location changed from what was originally approved, but the school building will remain the same.

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 an Amendment to an existing Special Use for a school to add property and relocate the agricultural building 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. The request is approved in accordance with the site plan submitted (dated 7/11/19) 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.

10. The application of *Robertson Chomphanuvong & Soukanh Keovilayvong* for an Amendment to an existing Special Use for a place of worship to allow for the construction of a carport on property located on the North side of US 20, 500 ft. West of CR 27, common address of 17341 US 20 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0510-2019*.

There were six neighboring property owners notified of this request.

Bounseum Sengsommaly, 1302 Harvest Dr., Goshen, was present representing Robertson Chomphanuvong. He stated they would like to construct a picnic shelter on the property. Mr. Hesser questioned the use of the existing outbuilding, and Mr. Sengsommaly responded the small building is used for storage. Mr. Hesser clarified a carport will be constructed next to the existing shed. Mr. Sengsommaly responded the car port will also be used as a picnic shelter in the summertime.

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 an Amendment to an existing Special Use for a place of worship to allow for the construction of a carport 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. The request is approved in accordance with the site plan submitted (dated 7/15/19) 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.

11. The application of *Austin Heflin & Daina Heflin, Husband & Wife* for a Special Use Renewal for an indoor/outdoor recreation facility (wedding venue) on property located on the North side of CR 36, 290 ft. East of CR 15, common address of 22889 CR 36 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0503-2019*.

There were 14 neighboring property owners notified of this request.

Mr. Hesser clarified all 11 code complaints were made to the Planning and Development Department, and Mr. Auvil responded yes.

Austin & Daina Heflin, 22889 CR 36, Goshen, were present representing this petition. Mrs. Heflin submitted the PowerPoint for the record *[Attached to file as Petitioner Exhibit #1]* Mr. Heflin stated reports were submitted to the Planning & Development Department from County Sheriff deputies referencing their interactions regarding noise complaints *[Attached to file as Petitioner Exhibit #2]*. Mr. Miller clarified the petitioners would like to renew approval for their wedding venue. Mr. Heflin responded the barn has been insulated and the doors reconstructed since their last renewal. He continued saying heat and A/C will be added to the barn once Nipsco upgrades their electric, due to the amperage required for the A/C. He explained the A/Cs are installed and ready to be used once the power is upgraded. Mr. Hesser request the petitioners address the noise issue. Mrs. Heflin then presented their PowerPoint, and she stressed their business is family owned and operated. She explained they oversee every event. She pointed out her sister Jackie is her assistant, and she is present for the hearing. She also noted Scott & Arlene Heflin, Austin's parents provide the golf carts, her grandmother operates a golf cart, her father helps with construction, and her mother provides business advice. She added most of the family members mentioned are present. She again stressed their business is mostly family operated. She stated this is the 4th time they have been before the Board since starting their business five years ago. She explained they hired Bradscos Engineering, Interface Architecture, and Reliance Builders to start the original process, but then financing fell through. She went on to say at that point they decided to use their own financing, and the Special Use was amended to use their existing barn as the venue. She mentioned in December of 2016 they began working on the barn, and they completed renovations/began operations May of 2017. She continued saying they became aware of the need for handicap ramps, emergency exits, handicap parking, and heat detectors to comply with state code after operations began. She noted Interface Architecture and Reliance Builders worked in 2017 and 2018 to bring the building into compliance. Mrs. Heflin stated they came back before the Board in 2018 and the noise complaints were raised. She stressed they resided/insulated the building and updated their rules/regulations in 2018 and 2019. She added they complied with every request made of them from the Board. She pointed out over the last eight months they added six inches of insulation and new siding, resulting in a total of nine inches of material added to the side of the barn creating a sound barrier. She added they also installed heaters, and the A/C is almost ready. She went on to say they rented portable A/C units to keep the temperature down until the new units are functional. She also noted the barn doors were reconfigured to keep less noise from leaving the building. She mentioned their contract is clear that all music must stop by 11 p.m. on Friday/Saturday evenings and 9 p.m. on Sundays. She went on to say any event with alcohol must have an officer present for crowd control and to patrol the property, and a few officers they use frequently are also present today. She added the officers always park their vehicle by the exit to make it clear that an officer is present. She noted the bar is operated by Nelson's Catering who is licensed, and they limit alcohol consumption by not serving shots or operating longer than five hours. She mentioned their bar manager is also present. Mrs. Heflin pointed out a decibel meter was added to measure sound level and keep a

record of the sound. She explained the DJs now have a visual meter of the sound with a green, yellow, or red light system. She added a six foot fence was installed around the property. She continued saying they also encourage anyone who has been drinking to leave their vehicle and pick it up the next day. She then pointed out pictures of the renovation process, and she explained they stained the new wood the same color as the old barn for a similar appearance. Mrs. Heflin stated multiple neighbors signed a petition in favor of their request, and it includes around 14 different addresses. She then noted only three out of the twenty-one events they have held this year played music past 9 p.m., and she stressed most events do not play music until 11 p.m. She continued saying the doors were only open for one event, and that was due to a 110 degree heat index. She mentioned she personally spoke to the neighbors to request grace that day due to the heat. She added only five events have had more than 150 guests in attendance, and their maximum number of guests allowed is 200. She stressed Austin, her sister, or herself is present at every event along with additional staff. She continued saying they work tirelessly on this operation, but they do not believe their neighbors' complaints will ever end. She request the Board take into account the effort they have put into alleviating the concerns and not require them to go before the Board every year for renewal. Mr. Hesser asked their reason for requesting renewal of the petition now, when it is not up for renewal until December. Mr. Heflin responded they received notification of the complaints through the mail, and they decided to address the concerns now rather than waiting until December. He continued saying when they first started the main complaint was trash on the property, but they only use glass/china tableware. He mentioned the next complaint was about installing a wooden fence instead of vinyl, and now the noise. He stressed the barn has been insulated and resided. Mr. Hesser clarified guests stay inside the barn. Mr. Heflin responded they have an outdoor smoking section, but the security guards ensure most people stay inside the barn. Mrs. Heflin stated the ceremony is typically outside on the far side of the building, and they play light music. Mr. Hesser clarified all receptions are held inside the barn, and their contract states that all music, food, and drinks must remain inside the barn. Mr. Heflin added their security guard drives around, the neighborhood, speaks to the neighbors about noise complaints, and then addressed any issues with the DJ.

Mr. Hesser asked that those present in favor of this request raise their hands, and about twenty-five hands were raised. He then asked for those opposed to this request and around eight hands were raised.

Scott Heflin, 54135 CR 7, Austin's father and the owner of Smiley's Golf Carts, was present in favor of this request. He stated they shuttle guests from the parking area to the venue in addition to driving around checking on the noise level. He continued saying he spoke to a few of the neighbors present opposed to this request, and he was told that nothing the Heflins do will ever make them happy. He continued saying some of the neighbors simply do not want the wedding venue there. He stressed they care about this business and go above and beyond investing a lot of money to make peace in the neighborhood. He stressed they have done everything in their power to make the neighbors happy.

Megan Shultz, 20043 Moonstone Lane, Goshen, was present in favor of this request as a friend and colleague of the petitioners. Mrs. Shultz stressed she would have held her wedding at this venue, if it had been available three years ago, to keep her money in Elkhart County. However, she continued they spent tens of thousands of dollars in St. Joe County, because they

could not find a venue in Elkhart County. She stressed this is a beautiful venue, and she believes people should take advantage of it. She went on to say Country Strong brings joy and happiness to those who hold events there, and it also brings money into the community. She stressed this venue is a great way to keep money in Elkhart County supporting jobs and local vendors. She stressed the Heflins do a wonderful job in addition to following the rules, and she stressed they mean no harm to their neighbors.

Christine Rheinheimer, 1705 Lincoln Way East, Goshen, was present in favor of this request and read a statement from her daughter, Grace, who was also present. The statement read as follows, "Around winter of 2017 my class was looking for a place to host their Junior/Senior Prom. We were having trouble finding a venue that we could afford. My mom knew Austin from work and when she told him about our situation he suggested that we come help him get the place ready for the upcoming wedding season in exchange for a free prom venue. This put a huge relief on the prom committee. However, Austin & Daina's generosity did not stop there. When a friend of mine and I met to talk with Daina about renting some decorations she let us use them at discounted prices, then on the date of prom Daina and Austin even went out of their way to help with last minute things. They both showed us amazing hospitality, even though we were not paying customers." Mrs. Rheinheimer stated she felt it was important to be present in support of the Heflins, because not many adults support the kids in this community. She expressed her thanks for their generosity towards the kids. She added Austin has two additional jobs as a registered nurse, and she has come to know him through work. She stressed he works more than full-time in addition to operating the wedding venue.

Arlene Heflin, 54135 CR 7, Elkhart, came on in favor of this request and shared a statement from one of the brides who was unable to attend the meeting. The statement read as follows, "To whom it may concern, last August I had the honor of marrying the love of my life at Country Strong. When I look back I cannot help but feel overwhelmed with joy, love, gratitude on how amazing our day was, and I truly believe that the venue was what made that so great other than getting married to my best friend of course. When we first toured Country Strong it did not take long for us to fall in love, and it was not even finished yet at that time. It had everything we were looking for and more. The adorable bridal sweet, county saloon that was added for the men, the endless number of beautiful spots surrounding the barn, the clever layout and unique yet flexible vibes was more than perfect. Even better it was affordable, there was also a variety of adorable decoration items available to rent among the helpful services offered by Daina. We could tell she put a lot of hard work and heart into it. It became obvious to us; it was more than the average venue, and before we left that day we knew Country Strong was where we were going to get married. We even changed our original date, which I loved. Totally worth it. Our day finally came and despite being insanely hot out, it was everything I dreamed of. While there were other things that went into making the day a great one, Country Strong was the base of it all. It was a lot easier to build off of something already amazing. I was a lot less worried about other things going wrong, because of the natural beauty and charm of the venue. Actually, our cake started to melt, it ended up collapsing a bit, but it did not even phase me. When I think about the experience at Country Strong, I cannot help but hope other brides out there have the same opportunity; to be able to celebrate such a big day for many people so beautifully is an experience like no other. I hope others have the chance to make such priceless

memories at Country Strong for many years to come. I know we will treasure ours forever. Sincerely, Jordan Rathy.”

Tommy Stihl, 111 E. Jefferson St., Goshen, was present for this request as one of the officers who works security at the venue. Mr. Stihl stated the noise level is significantly lower, since Mr. Heflin completed the repairs. He continued saying he believes the petitioners submitted officer notes that state the noise level was not a concern. He continued saying the neighbors have started fires with the smoke directed towards the venue, used chainsaws, and shot guns to make it difficult for those getting married to enjoy their special day. He again stressed the noise has significantly decreased since completing the improvements.

Kaylene Yoder, 22926 CR 36, the neighbor directly across the road from the subject property, was present in favor of this request. She stated she has lived on the property for 28 years including the five years this venue has operated, and the petitioners have done an amazing job. She stressed she cannot hear the noise unless she is outside and close to the property. She noted she has no complaints against this request, and she urged the Board to approve it.

Jackie Grove, 54133 Ida Rd., Elkhart, Daina’s sister, was present in favor of this request. She stated she works for her sister as her second job. She added her children also help out, and it teaches them a good work ethic. She continued saying her oldest daughter decided she would like to go into the wedding venue business, and helping out has really benefitted her.

Delilah Bruce, 15101 CR 26, Middlebury, the bar manager for Nelson’s was present for this request. She stated they follow all applicable laws, obtain the needed permits, do not over serve, and do not serve to minors.

Gordon Roberts, 16688 CR 14, Goshen, was present in favor of this request. Mr. Roberts stated he does not live close enough to be effected by the venue, but he does live on a bike route. He continued saying 200 motorcycles passing his house is very loud. He added he lives a mile north of US 20, and he would argue that the traffic is louder than music. He noted this venue helps generate revenue for several businesses in the county from flowers, food, dressed, etc.

Joe Atha noted the extremely hot week mentioned by the petitioners took place at the end of June, and a majority of the noise complaints referred to that weekend when the doors were open.

Dan & Anna Umbower, 63792 CR 15, four houses north of Country Strong were present opposed to this request. He stated he has nothing personal against the Heflins or anyone else present, but he pointed out a majority of those present in favor of this request do not live near it. He continued saying this business operates on weekends and evenings. He agreed there is nothing the petitioners can do to rectify the situation, because this operation already divided the neighborhood. He stressed most of the neighbors complaining lived in the area for 15+ years before the business started. He compared this situation to how everyone wants electricity, but no one wants the power plant in their backyard. He stated he has no problem with wedding venues, but he is against having one in his backyard. He went on to say he does not appreciate car alarms, people smoking outdoors, or the comings/goings. He mentioned their only options to resolve this situation are to voice their concerns or sell their homes.

Anna Umbower, 63792 CR 15, then came on to speak against this request. She stated the noise level varies every night depending on the weather, DJ, doors open or closed, etc. She mentioned people congregate on the deck along the north side of the building. She pointed out the petitioners stated at the last hearing that the barn doors would remain closed, and she

submitted dated pictures showing the doors open *[Attached to file as Remonstrator Exhibit #1]*. She stressed music is not the main problem, because people often talk loudly, sing, slam car doors, set off car alarms, and revv engines when leaving the property. She mentioned she is unsure of a solution to remedy sound at 11 p.m. while they try to sleep. She went on to say she believes a 100 ft. sound barrier, similar to what is used on major highways, would be needed to stop the noise. She then request permission to play a few recordings of the noise approximately three minutes long. She noted the quality is not the best since they were taken with her iPhone, and it does not do the noise justice. She pointed out the booming base, DJ, and crowd noises can all be heard in the recordings. She also added the video part is only of her recording it, and she then proceeded to play the recording for the Board. She pointed out the first recording is from August 4, 2018, at 9:30 p.m., and she would like them to compare it to ones from 2019. The next recording was from August 11, 2018 at 9:15 p.m., and Mr. Lyon clarified both recordings took place before the barn doors were closed. She then moved on to recordings from 2019; the first being July 5th. The next recording was from July 20th at 9:50 p.m.

Jim Flora, 63945 CR 15, Goshen, the property owner directly west of the venue across CR 15, was present opposed to this request. He clarified only one house separates his property from the venue. He then submitted a letter in opposition *[Attached to file as Remonstrator Exhibit #2]*. Mr. Flora stated he was surprised by the amount of people present in support of this request, and he also would have brought family and friends to support his side, if he had known. Mr. Campanello pointed out the petitioners' family and friends present gave testimony of working at the venue. Mr. Flora then read his submitted letter.

Jackie Hackney, 63954 CR 15, Goshen, the neighbor approximately 150 to 200 ft. west of the barn, was present in remonstrance. Mr. Hackney stated the petitioners claimed to keep the doors closed at all times, but the doors often remain open after a guest exits the barn. He continued saying it is closed now more often than before. He added he spoke to the Heflins after the side of the barn closest to him was insulated, and he informed them that it had not helped at all. He argued the noise is just as loud now as it was before. He then addressed the complaint about shooting guns, and he pointed out he has shot guns with Mr. Heflin on their property. Mr. Hackney stressed this request affects him the most, because he is the neighbor closest to the barn. He mentioned he has also invested a lot of money into his property by installing a fence and planting around \$2,500 worth of arborvitaes to help block the noise. He stressed the noise is very loud at times.

Barbara Martinez, 63834 CR 15, Goshen, the neighbor behind the barn was present against this request. She stressed her main issue is the noise. She explained she hears the noise from the parking lot including vehicles driving in/out, doors being opened/shut, car alarms, and people outside talking/yelling. She continued saying the music is too loud, and the volume seems to increase throughout the night. She pointed out she typically hears the DJ talking, people singing along, and even the wedding party making speeches. She noted she believes the main problem is that the back barn doors are open and people frequently go in/out of the barn. She added she also hears noise after the party.

Mr. Heflin came back on and addressed the concern about noise gradually increasing throughout the night. He continued saying in order to address that concern they installed a decibel reader with a red, yellow, and green light system. He explained it monitors sound every

minute, and the data can then be uploaded. He went on to say the data will be available to show anyone with concerns the decibels at that time. Mr. Hesser asked their instructions to the DJ.

Mrs. Heflin responded they instruct the DJ to keep the decibel meter at green and bring the noise down, if it reaches yellow. She continued saying the DJ is required to shut down completely, if he reaches red more than twice. Mr. Atha asked when the insulation/siding work was completed. Mr. Heflin responded the west side was completed two weeks ago, and the rest of the barn was completed prior to that. Mr. Lyon asked if any events have been held since completing the remodel. Mr. Heflin stated they did not host a wedding last weekend, and Mrs. Heflin pointed out they finished the west side of the barn then. Mr. Heflin explained their wedding for the weekend cancelled, so they took the opportunity to install A/C. Mr. Atha asked if the restroom facilities are inside the barn. Mr. Heflin explained per state the facility was not allowed to have running water inside, but they have a restroom trailer outside. Mrs. Heflin stressed the music is contained 100%, and the officers present can attest to that. She continued saying music is never played outside. Mr. Atha clarified the barn is now completely insulated, and Mrs. Heflin responded the roof is not. She explained the roof will never be insulated, and Mr. Heflin added it is 35 to 40 ft. tall.

The public hearing was closed at this time.

Mr. Miller stated he remembers there initially being concerns about the surrounding neighborhood. He continued saying a 1-2 year time limit is imposed on the request every time it is heard by the Board, providing the petitioners time to address their concerns. He added it appears the improvements to the barn were not completed until recently. Mr. Campanello pointed out it appears the complaints were not filed until the petition came up for renewal. Mr. Hesser noted the request was not due for renewal until December. Mr. Campanello responded most complaints were filed within a 1-2 month time span, and Mr. Atha pointed out a large amount were received towards the end of June. Mr. Miller explained he lives across town from the County Fair, and he can still hear the announcer and bands playing. Mr. Hesser stressed it appears the petitioners have taken substantial steps at their own risk to decrease the noise level, and a lot has been done to contain the noise. Mr. Campanello stated the noise levels are similar in his neighborhood in addition to trains, and he wished he had the noise level demonstrated by the recordings. He stressed noise is everywhere, and he does not believe the petitioners should be required to reapply every year. Mr. Hesser agreed the request should be approved for a longer time period, and he believes several improvements have been completed over the last year to improve the situation. However, he continued the improvements could fall by the wayside. Mr. Campanello asked the precedent for time restrictions on Special Use requests. Mr. Hesser suggested a 3-5 year time restriction for this request. Mr. Miller pointed out the petitioners are likely to invest more money into the operation, if it is approved for 3-5 years, and the Board could then decide not to renew the request. He went on to say that does not seem fair, but it is a risk the petitioners take. Mr. Hesser pointed out the petitioners already took a risk with the work they completed. Mr. Lyon responded he agrees with adding a time limit to approval, but he is not in favor of approving it for five years. He continued saying he would feel more comfortable approving it for less than five years.

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 Renewal for an indoor/outdoor recreation facility (wedding venue) 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. The request is approved in accordance with the site plan submitted (dated 7/15/19) and as represented in the Special Use application.
2. Approved for a period of three (3) years with renewal before the Elkhart County Advisory Board of Zoning Appeals.

Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Tony Campanello, Denny Lyon, Randy Hesser.

No: Joe Atha, Roger Miller.

Mr. Hesser noted the Board appreciated the comments from both sides, and they still have some concerns. He continued saying this request is approved for three years, and he asked that both sides attempt to work together to make this an acceptable situation for everyone involved.

12. The meeting was adjourned at 10:20 a.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary