

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21TH DAY OF FEBRUARY 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 Vice-Chairperson, Roger Miller. Staff members present were: Chris Godlewski, Plan Director; Jason Auvil, Zoning Administrator; 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.

Absent: Denny Lyon, Randy Hesser.

2. A motion was made and seconded (*Atha/Campanello*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of January 2019 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Atha/Campanello*) 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 *Melvin J. Bontrager & Linda L. Bontrager, Husband & Wife* for a Special Use for a home workshop/business for buggy sales/service and equine supplies on property located on the South side of US 20, 1,100 ft. West of CR 33, common address of 15452 US 20 in Middlebury 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-0021-2019*.

There were six neighboring property owners notified of this request.

*****It should be noted that Randy Hesser arrives at this time*****

Marlin Hochstetler, 65436 CR 43, was present representing Melvin Bontrager. Mr. Hochstetler stated the petitioner would like to use an existing 4,000 sq. ft. building to sell harnesses and feed supplies. He continued saying he currently serves two customers a day, but he would like to expand up to ten a day. He added their operation will not significantly increase traffic, and they typically have two truck deliveries a day and UPS once a month for supplies. Mr. Campanello asked the type of truck that delivers to the property, and Mr. Hochstetler responded pick-up trucks and trailers.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser noted the history mentions approval to construct a new residence as long as the existing one was demolished after construction is completed. He continued saying everything appears to have been completed.

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 a Special Use for a home workshop/business for buggy sales/service and equine supplies 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 1/11/19) and as represented in the Special Use application.

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

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

5. The application of *Tri-county Land Trustee Corporation (Land Contract Holder) & Steven R. Miller & Inez Miller, Husband & Wife (Land Contractor Purchasers)* for a Special Use for a commercial greenhouse on property located on the South side of CR 8, 3,400 ft. West of CR 35, common address of 14080 CR 8 in York 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-0001-2019*.

There were 11 neighboring property owners notified of this request.

Steve Miller, 14080 CR 8, Middlebury, was present for this request and stated he would like to open a greenhouse to earn some extra money. He mentioned he will have more UPS deliveries during spring time, but most of the increased traffic will come from retail customers. Mr. Atha questioned the location of the greenhouse, and whether it is new or existing. Mr. Steve Miller responded when he came in to file for the Special Use he discovered that he did not have time to wait until after the hearing to construct the greenhouse. He went on to say he was given permission to pull the permit for the greenhouse prior to receiving approval, but it cannot be opened to the public. He then pointed out a picture that shows the completed greenhouse. Attorney Kolbus questioned the greenhouse size, and he responded 20x48. Mr. Hesser mentioned the application lists two new buildings, including a 12x16. Mr. Steve Miller explained the 12x16 building is a small mini barn used for seed storage. Mr. Hesser stated he did not see the proposed buildings on the site plan, and he questioned a 16x20 building that was not included in the application. Attorney Kolbus clarified the 20x48 greenhouse is on the site plan. Mr. Hesser stated he believes a revised site plan is needed that shows both proposed buildings. He then asked the need for a larger sign than allowed with a home workshop/business. Mr. Steve Miller explained he would like a letter sign to promote seasonal/holiday products. Mr. Auvil stressed Staff does not have a problem with the proposed sign. Mr. Hesser asked the rational for allowing a larger sign. Mr. Auvil responded the petitioner requested it, and he believes it is within reason. He continued saying greenhouses carry different plants based on the season, and a letter sign will allow the petitioner to advertise his products. Mr. Roger Miller stated he was also concerned about the sign size, but he believes this location is out in the open without many surrounding residences. He then questioned what appeared to be a concrete loading dock in one of staff's pictures. Mr. Steve Miller responded

that is where his neighbor parks his lawn mower, and Mr. Campanello pointed out it is located on the neighbors' 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** 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 a commercial greenhouse 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 approval by staff that shows the correct dimensions of the sign and also shows/designates the new buildings referred to in the questionnaire within thirty (30) days.

The following commitment was imposed:

1. The request is approved in accordance with the site plan to be submitted as represented in the Special Use application.

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

Yes: Joe Atha, Tony Campanello, Roger Miller.

No: Randy Hesser.

Mr. Hesser clarified he does not object to the Special Use, but he is opposed to the larger sign.

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

6. The application of ***Elkhart Community Schools Building Corporation*** for a Special Use for an educational facility on property located on the South side of CR 10, 1,504 ft. West of Nappanee St., in Cleveland Township, zoned M-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0027-2019*.

There were 10 neighboring property owners notified of this request.

William Lamie, Alliance Architects, 929 Lincolnway E., South Bend, was present representing the petitioner. He stated approval of the Special Use will allow the Elkhart Community School Corporation to expand their existing campus and provide small engine technology. He continued saying their design allows for a continuous campus, and he pointed out the existing buildings to the west. He stressed the addition will greatly enhance the campus and serve the community.

Tony Gianesi, Elkhart Community Schools, stated this expansion is part of their plan to increase their presence in the community. He explained the new building is under their technology and engineering school that is part of the high school merger. He continued saying diesel technology started about four years ago in their old electric building at 1704 Bristol St. He stated that building is not suited for diesel tech, but it did get them going.

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 educational 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 1/14/19) and as represented in the Special Use application.

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

Yes: Joe Atha, Tony Campanello, Roger Miller.

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

7. The application of **Manuel Martin (Buyer) & Galen L. Brubaker & Martha M. Brubaker, Husband & Wife (Sellers)** for a Special Use for a home workshop/business for a cabinet shop on property located on the North side of CR 36, 1,060 ft. East of CR 15, common address of 22772 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-0024-2019*.

There were 14 neighboring property owners notified of this request.

Charlie Zercher, Kindig and Sloat, 102 Heritage Pkwy., Nappanee, was present representing Manuel Martin. He explained Mr. Martin would like approval for a home workshop/business for custom woodworking, dining/bedroom/office furniture, and kitchen cabinets. He continued saying he plans to construct the building shown on the site plan, and he will not have any outdoor storage. He added they have ample room to turn around and park trucks in the driveway. He again mentioned everything will be contained inside the building. Mr. Campanello asked about retail sales, and Mr. Zercher responded they will have a few. He continued saying he may have one to two customers a day, but most days none. He added UPS will deliver to the property weekly and semi or minivan deliveries will be monthly. He also mentioned semis have room to turn around on site. Mr. Hesser thanked Mr. Zercher for the submitted materials, and he questioned what appeared to be a garage behind the residence.

Manuel Martin, 63854 CR 11, Goshen came on for this request. Mr. Martin explained four mini barns are currently on the property. He continued saying a few will be used to house chickens, and the rest will be torn down. Attorney Kolbus clarified the mini barns are not associated with the home workshop/business request. Mr. Hesser mentioned a garage appears to be next to the residence in one of the submitted pictures. Mr. Martin stated the only out buildings on the property are the mini barns, and he explained the previous owners used one for their root cellar. Mr. Hesser then had staff bring up the picture in question, and it was found to be the neighbor's property. Mr. Hesser asked if the personal storage square footage will exceed

the square footage allowed, and the calculations provided by Mr. Zercher showed the new building falls within the allowed amount. Mr. Zercher continued to say some of the existing buildings will be used for chickens an agricultural use. Mr. Atha clarified no signs will be on the property.

Virginia Curtis, 22826 CR 36, Goshen, the neighbor across the street came on and stated she is neither for nor against the request. She explained they moved to their property 55 years ago to avoid looking at factories, and their concern is that a factory will be placed across the street from them. She continued saying they will need to sell their residence in the next five years due to their age, and they do not want this operation to decrease their property value. She mentioned stakes were placed in the middle of a field, and she asked if they mark the proposed building location. She added the site plan shows the building to the east of the stakes. She stressed their concerns are property value and looking at a barn.

Mr. Zercher came back on and pointed out the stakes location on the aerial. He explained the furniture shop will be directly behind the residence, and the stakes are for an agricultural building. Mr. Atha questioned the appearance of the proposed building, and Mr. Zercher responded it will be a typical pole structure. He also mentioned the business will only be operated by Mr. Martin and one additional employee. He stressed the request is for a home workshop/business with no outside storage. He also pointed out the staked area is for an agricultural building that is allowed by right.

Mrs. Curtis came back on and stated the proposed building is 72x48 which is larger than their residence. She questioned what her view will be from her front porch, and if she will be looking at a factory. She continued saying the subject property is 27 acres, and she asked if the building could be moved to the north or east. She stated they do not object to Mr. Manuel making an income by operating a business. However, she continued they do not want the view from their porch to be a huge building. Mr. Atha stated the workshop will be located behind the house and appear similar to a barn. Attorney Kolbus mentioned the petitioners can construct a pole building as large as they want anywhere on the property for an agricultural use. He stressed the new building will appear similar to an agricultural building. She stated she understands but wanted to voice their concerns to the Board.

The public hearing was closed at this time.

Mr. Hesser stated he understands their concerns, because he had the same ones living next to a home workshop/business. He stated the representation demonstrated that it is in fact a home workshop limited to one outside employee. He continued saying the request is consistent with the Zoning Ordinance. Attorney Kolbus suggested adding a commitment should be added prohibiting backing in/out of vehicles from/onto the county road. Mr. Hesser stated the property appears to have plenty of room for a semi to turn around.

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 cabinet shop 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 1/14/19) and as represented in the Special Use application.
2. Baking in/out of vehicles from/onto CR 36 is prohibited.

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

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

8. The application of *Tracy G. Malec & Dorrie D. Malec, Husband & Wife* for a Special Use for an agricultural use for the keeping of animals on property located on the West side of CR 11, 2,076 ft. South of CR 6, common address of 53387 CR 11 in Osolo Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0032-2019*.

There were 14 neighboring property owners notified of this request.

Tracy Malec, 53387 CR 11, Elkhart, was present for this request. He stated when they moved to the property forty years ago the area was still agricultural, and they owned horses on and off during that time. He continued saying they currently have three horses on the property that they use for therapeutic sessions and lease out to 4-H children who cannot afford their own animals. He stressed they do not make any money off of the horses; they simply enjoy sharing them. He went on to say they keep them for the children. He explained his wife has been a 4-H leader for 25 years, and he was also one for 17 years before retiring. He stressed the horses do not make much noise, and they do not smell as bad as cows, pigs, or chickens. Mr. Malec added he spreads the manure in his woods. He stressed they do not plan to construct any additional buildings, and they will keep the horses until his wife is done being a 4-H leader. Mr. Atha asked the size of the pasture, and he responded he feeds them, since his property is mostly wooded. Mr. Miller clarified the property is four acres. Mr. Atha mentioned the pasture is only on a small portion of the property, and he asked the state of the pasture. Mr. Malec responded it is currently muddy, but he has panels that he moves around to avoid the muddy areas. He stressed the horses have been on the property for forty years, and it was zoned agricultural.

Michael Prue, 25154 Shawn Dr., came on in favor of this request and stated he owns approximately 7+ acres adjoining the subject property. He stressed they have not had any problems with the horses, and he was not aware they were on the property for a long time. He mentioned Mr. Malec has acreage to walk the horses, and he is also welcome to walk them on his property. He again stressed they have no problems with the horses.

Mr. Malec came back on and Mr. Atha asked if the horses roam the property. Mr. Malec responded they try to avoid allowing them to roam due to the number of people in the area. He continued saying during the winter they stay in their pens, but once spring comes they take them to Potato Creek and horse shows. He stated the children they help with therapy think they are different, but they take them to horse shows with other children to show them that they are not.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated no remonstrators are present, but he disagrees with the wording of the second sentence in Finding #2. He suggested "in a dense residential area" either be deleted or moved to read, "The parcel is in a dense residential area, but it is a large 4.80-acre parcel and will remain residential in character." He added the questionnaire refers to three horses, but no

limitation was recommended in the Staff Report. He suggested adding a commitment restricting approval to three horses. Mr. Campanello asked the petitioner, if he plans to obtain any additional horses, and he responded no. Mr. Atha stated in the future he would like to see more details on the site plan in regards to the pasture size noted in acres or square feet. Mr. Auvil responded the horses for this request are not pasture fed, and Mr. Atha responded he understands. However, he continued muddy pastures are an eye sore and harmful to the environment. He continued saying the horses have been on this property for a long time, and the neighbors do not seem to mind.

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

Motion: Action: Approve, **Moved by** Joe Atha, **Seconded by** Tony Campanello that this request for a Special Use for an agricultural use for the keeping of animals be approved based on the following findings and conclusions of the Board:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Zoning Ordinance. Agricultural use for the keeping of animals (ponies) is allowed by Special Use in R-1 zoning districts.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is in a dense residential area but is a large 4.80-acre parcel, and it will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by providing for recreational/4-H and therapeutic opportunities.

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 commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 1/14/19) and as represented in the Special Use application.
2. Limited to a maximum of three (3) adult horses at any one time.

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

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

9. The application of **Richard L. Borkholder & Nancy S. Borkholder, Husband & Wife** for a Special Use for a roadside stand on property located on the East side of CR 21, 3,200 ft. South of CR 46, common address of 69590 CR 21 in Jackson 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-0026-2019*.

There were 10 neighboring property owners notified of this request.

Richard Borkholder, 69590 CR 21, New Paris, was present for this request. He stated he plans to plant lavender in the field behind him and operate a u-pick lavender farm. He explained lavender plants take three years to mature, and he already planted some. He stated his goal is to allow people to cut lavender in addition to selling mums in the fall. Mr. Borkholder then pointed out proposed parking along the north drive. He explained customers will have access to and

from the field through the barn to maintain order. Mr. Hesser noted the questionnaire mentions a future structure for distilling oils. He asked if an additional Special Use is required. Mr. Campanello stressed that is an agricultural use. Attorney Kolbus clarified the site plan shows a 16~~0~~32~~0~~ future addition, and he believes distilling oils is covered under this Special Use since it is noted on the site plan and in the application. He continued saying distilling oils can be approved since it was mentioned in the application and on the site plan. Mr. Miller asked if that is a permitted agricultural use, and Mr. Auvil responded distilling oils is permitted but selling them is not. Mr. Hesser stated he wanted to clarify that point to make the neighbors aware. Mr. Miller stated he appreciates the forethought with parking, because he was concerned about traffic flow onto/off 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** 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 Special Use for a roadside stand 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 1/14/19) and as represented in the Special Use application.

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

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

Attorney Kolbus clarified the Board can address any concerns they have with a proposed building on the site plan in their motion. Mr. Hesser stressed his only concern was fairness to the neighbors, and he overlooked the building on the site plan.

10. The application of *Jayson D. Dempsey & Clarissa M. Dempsey, Husband & Wife* for a Special Use for an indoor/outdoor recreational facility (wedding venue) on property located on the West side of CR 7, 7,277 ft. North of CR 4, common address of 50801 CR 7 in Osolo 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-0030-2019*.

There were 14 neighboring property owners notified of this request.

Mr. Miller asked if the request will be approved for any indoor/outdoor recreational use or only a wedding venue. Mr. Hesser stated the questionnaire only addresses a wedding venue, and that is part of the record/limitations. Attorney Kolbus added the request specifies wedding venue after the indoor/outdoor recreational facility.

Jason & Clarissa Dempsey, 50801 CR 7, Elkhart, were present for this request. Mr. Dempsey explained they purchased his grandparents' old farm house and started fixing it up. He continued saying they looked for a way to preserve the barn and property. He stated their family

photographer suggested taking pictures at their property, which spurred on their idea of opening a wedding venue. He added they thought it would be a great way to preserve the barn while making it functional for the community. Mr. Atha asked if they spoke to any of their neighbors. Mr. Dempsey responded his parents live behind them, and they sent letters introducing themselves and explaining their plans to all of the neighbors. Mr. Atha asked if they received a response, and he responded no. Mr. Miller clarified no paintball or laser tag will take place on the property. Mr. Hesser questioned parking, because it is not shown on the site plan. Mr. Dempsey stated his parents own the open field to the north of their property, and they would like to park there. However, he was not sure it was possible since they do not own the property. He continued saying if that is not an option, additional parking could be added along their driveway. Mr. Hesser suggested having a signed written agreement, allowing parking on the neighboring property. He added a written agreement and revised site plan showing an acceptable amount of parking are required for approval by staff. He then pointed out that the petition states operations will cease at 11 p.m. He mentioned a year ago he did not think a wedding venue would create problems, but since then noise complaints have been raised by neighbors. He explained he would suggest adding a year renewal to this request with previous concerns in mind. Mr. Miller stated he is surprised staff recommended approval for this request without seeing the proposed parking. He added noise is a concern, because it is hard to shut a party down once it has started. Mr. Dempsey stated he has three young children, and Mr. Hesser clarified the petitioner resides on the subject property. He then suggested Mr. Dempsey be aware of the noise.

Mr. Auvil came on and submitted an email in remonstrance from Randy Holtzinger, 50899 CR 7 *[Attached to file as Staff Exhibit #1]*. He stated his concerns include hours of operation, noise, and traffic, and he would also like to know if alcohol will be served. He continued saying he was unable to attend the meeting due to having surgery. Mr. Auvil added he also received a phone call on February 15th from Terry & Beverly Davidson, 50828 CR 7, since she is in her eighties and does not have an email. He expressed their concerns are traffic, noise, parking, and the potential affect on their property value. He also mentioned a call he received on February 18th from Steve and Tina Musselman, 50800 CR 7, and they expressed the same concerns about noise, traffic, and parking. He added they were unable to attend the hearing due to conflicts with work. He added he mentioned to the remonstrators that the Board generally approves wedding venues for a year in case they receive complaints.

Mr. Miller asked if the facility is ready to hold weddings, and Mr. Dempsey responded no. Mr. Miller then asked how much time he anticipates needing to be operational, and Mr. Dempsey was unsure. He continued saying receiving Board approval was their first step, and next they will have an engineer inspect the barn and determine what work needs to be completed to start operations. Mr. Hesser asked if they plan to hold weddings this summer, and he responded no. He explained the engineer needs to inspect the building before the remodel begins. Mr. Miller stressed the petitioners need a year to begin operations, and he suggested approving the request for two years. Mr. Hesser agreed with the recommendation, based on the petitioners testimony that no weddings will be held this year.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated Mr. Auvil was correct in telling the remonstrators about their typical approval for a year, but he explained approval for two years is reasonable since no events will

take place this year. He continued saying the concerns received are problems the petitioner will need to address.

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 an indoor/outdoor recreational facility (wedding venue) 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 revised site plan must be submitted for approval by staff that shows the proposed venue parking on the subject property or on the neighboring parcel (with a legal agreement) within thirty (30) days.

The following commitments were 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 application.
2. Approved for a period of two (2) years; any renewal shall be before the Elkhart County Advisory Board of Zoning Appeals.

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

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

11. The application of *Star Property Real Estate Company, LLC* for a Special Use for building supplies (assembly and sale) on property located on the East side of SR 13, 860 ft. North of CR 30, common address of 61790 SR 13 in Clinton 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-0025-2019*.

There were 16 neighboring property owners notified of this request.

Attorney Kolbus mentioned the revised site plan received 2/24/19.

Marlin Hochstetler, 65436 CR 43, Millersburg, was present representing the petitioners. He stated the revised site plan shows an open loading dock, but they decided to enclose it. Attorney Kolbus pointed out the mentioned dock, and Mr. Hochstetler clarified it will now have walls, a roof, and two overhead doors for a semi dock. Mr. Hesser stated only six parking spots were identified on the site plan, but the petition mentions ten outside employees. Mr. Hochstetler stated the drive is all stone, and they have room for more than six parking spaces. Mr. Campanello asked about buggy parking. Mr. Hochstetler pointed out some buggy parking is available in the back, but the employees all drive motorized vehicles. Mr. Hesser stated he would like a revised site plan showing employee parking, and he then questioned customer parking. Mr. Hochstetler clarified the parking spots shown are for employees, and very few customers come to the property. He continued saying some retail sales take place, but it is mostly a whole sale operation. He explained the petitioner laminates doors and makes fan coverings for agricultural buildings. Mr. Hesser asked if the Zoning Ordinance calls for minimum parking based on the number of employees, and Mr. Auvil responded no. He stated it

does, however, specify that every 2,500 sq. ft. indoor storage/factory space and 300 sq. ft. office space require one parking spot. Mr. Hochstetler mentioned it will not be hard to update the site plan to reflect additional parking, and Mr. Hesser asked that a revised site plan be submitted for staff approval. Attorney Kolbus added the loading dock should also be changed from open to enclosed on the revised site plan. Mr. Miller asked the generator's size, and Mr. Hochstetler responded it will be a large diesel generator. Mr. Miller continued saying he does not foresee any noise problems in this area, and Mr. Hochstetler stated CR 30 is around 600 ft. away. Mr. Miller mentioned generators produce a lot of noise, and Mr. Hochstetler responded buffers can be added to reduce the noise, if it is a problem. Mr. Atha asked how long the business has been in operation. Mr. Hochstetler responded the operation has been running out of a different location for eight to ten years, and their new building was a cow barn that has sat empty. Mr. Atha stressed the new site appears to have been in operable for a few months. Mr. Hochstetler clarified an egg operation is also run on the property out of the other barns. He explained semis frequently come and go to/from the property with plenty of room 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** 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 building supplies (assembly and sale) 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 approval by staff that shows the loading dock enclosed and adequate parking for the number of proposed employees within thirty (30) days.

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 application.

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

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

12. The meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary