

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20th DAY OF JUNE 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; Mae Kratzer, Planner; Doug Powers, 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.

Absent: Randy Hesser.

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 16th day of May 2019 be approved as read. The motion was carried with a unanimous roll call vote.

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

4. The application of *Craig S. Dickison & Karen S. Dickison, Husband & Wife* for a Special Use for a ground-mounted solar array on property located on the West side of Falcon Ln., 1,130 ft. East of CR 33, 2,380 ft. South of US 33, common address of 14661 Falcon Ln. in Benton 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-0304-2019*.

There were 23 neighboring property owners notified of this request.

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

Betsy Salyer, Solar Energy Systems, 8015 N. 1350 W., Nappanee, was present representing the petitioners. She stated the proposed solar array will be located in the back corner of the property behind the trees. Mr. Campanello questioned the use of the property to the west. Mrs. Salyer responded it was an agricultural use, but she is unsure of its current use. She stressed the petitioners did speak to all of their neighbors about the request.

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 a Special Use for a ground-mounted solar array be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/30/19) 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.

5. The application of *Abra A. Masuth, a Married Woman* for a Special Use for warehousing and storage for a tree service business on property located 250 ft. West off of CR 25, 3,700 ft. North of CR 23, common address of 52383 CR 25 in Washington 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-0328-2019*.

There were nine neighboring property owners notified of this request.

Daniel Masuth, 52383 CR 25, Bristol, was present for this request and submitted a petition signed by his neighbors in favor of his request [Attached to file as *Petitioner Exhibit #1*]. Mr. Masuth explained the proposed building will be used to work on his equipment when the weather is poor. Mr. Atha clarified most of his work is off-site. Mr. Masuth then pointed out the proposed location for the new building. He stressed he typically works off-site, but he does not have a building to perform equipment maintenance when it is raining. Mr. Hesser mentioned the site plan appears to be missing several dimensions for buildings. Mr. Masuth stated the small barn on the site plan is about the size of a large shed, and it is only large enough for a small car. He continued saying he currently stores his tools in that building, and his lawn mower and golf cart under the lean-to. He then pointed out his residence on the site plan, and Mr. Hesser questioned its size. Mr. Masuth responded the barn is 22'x48', and the residence is a total of 2,500 sq. ft. Mr. Lyon asked if the easement is still needed, and he responded yes. He continued saying his mother lives in the residence east of his, and they share a driveway.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for warehousing and storage for a tree service 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. The request is approved in accordance with the site plan submitted (dated 5/8/19) 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 *AMMF Trustee Corporation, Trustee for Amish Mutual Mortgage Fund, an Indiana Land Trust (Land Contract Holder) & Karl D. Yutzy & Ruth Ann Schmucker (Land Contract Purchasers)* for a Special Use for a home workshop/business for a firearms business on property located on the North side of CR 46, 750 ft. East of West County Line Rd., common address of 30863 CR 46 in Locke 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-0343-2019*.

There were three neighboring property owners notified of this request.

The petitioner was not present.

Mr. Auvil stated the petitioners were unable to attend this hearing due to a conflict. Mr. Miller asked if the petitioners must be present to act on the request, and Mr. Hesser responded no.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus explained the Board can either table this request, if they have any questions, or act on it in the petitioner's absence. Mr. Hesser stated he has questions about the submitted site plan, and he pointed out the questionnaire refers to a 12'x32' shop, which he does not see on the site plan. He continued saying he would assume it references the 12'x26' building shown on the site plan. He added the site plan also shows two future buildings that he would like the petitioner to address. Mr. Lyon mentioned he would also like to ask the petitioner, if they contacted their neighbors. Mr. Campanello clarified he is in favor of tabling the request, since the petitioners are not present to answer their questions about the site plan.

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

Motion: Action: Table, **Moved by** Roger Miller, **Seconded by** Denny Lyon that this request for a Special Use for a home workshop/business for a firearms business be tabled until the July 18, 2019, Advisory Board of Zoning Appeals meeting due to the absence of the petitioner.

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

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

7. Mr. Auvil presented the staff item for the *Town of Wakarusa (SUP-0814-2017)*. He explained the Town of Wakarusa submitted a Special Use for a government facility for a police department back in November of 2016. He continued saying their request also included numerous Developmental Variances for the property. He stated the town has since changed the location of their proposed police department, and the building has been sold. He went on to say the town is requesting the Special Use and all associated Developmental Variances be rescinded. Mr. Hesser pointed out he remembers some opposition to the request, and Mr. Auvil added it was heard in 2017.

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

Motion: Action: Rescind, **Moved by** Randy Hesser, **Seconded by** Denny Lyon that the Board approve the request for rescission.

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. Auvil presented the request for a minor change to amend the site plan for a Use Variance for *Tod W. DeBolt & Stephanie S. DeBolt, Husband & Wife (Buyers) & Bruce A. Showalter, Steven G. Showalter, Michael K. Showalter Tenants in common (Rose Ann Showalter Life Estate) (Sellers)* (UV-0107-2019). He explained the request for a Use Variance to allow for a second dwelling on the property was approved March 21, 2019. He continued saying the request is to move the location of the proposed residence, due to a revised septic system design. Mr. Auvil stated the soils in the original location were not conducive to the type of system and reserve needed, and the residence was moved to accommodate the system needed. Mr. Hesser questioned the need for Board approval, and Attorney Kolbus pointed out the original request was for a second dwelling on a parcel. Mr. Hesser clarified the original residence will be removed, and this request is to change the location of the new residence.

Stephanie DeBolt, 12516 CR 46, was present to answer any questions. Mr. Hesser clarified they plan to construct a new residence while living in the existing one, and the existing one will then be removed once the new one is completed. He added this request is to change the location of the new residence. She explained the property layout needed to be moved around, resulting in a minor change request.

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 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.

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

9. Mr. Auvil presented another staff item for *Middlebury Community Schools*. He stated a representative for the schools is currently at the Planning and Development office submitting a commercial project. He explained their request is to amend a Special Use permit for a high school that was approved on December 15, 1966. He continued saying they plan to develop a new sports facility and athletic fields for Northridge High School. He added the new structures total approximately 16,280 sq. ft. including a stadium, press box, locker rooms, restrooms, concessions, dugouts, and storage areas, which fall within the 10% rule for approval at the staff level. However, he continued saying construction will take place on undeveloped land owned by the school that was previously a gravel pit. He mentioned he thought it necessary to bring this before the Board as a major/minor change since the land being considered is undeveloped. He stressed staff recommends approval as a minor change. He explained this multi-million dollar project was funded by a referendum, meaning the tax payers of Middlebury voted for it. Mr. Campanello questioned how the gravel pit was closed, and Mr. Auvil responded he is unsure. He added the site plan submitted shows their proposal, just north of the current high school. Mr. Miller clarified it is near the water tower, and Mr. Auvil pointed out the existing high school. Mr. Campanello stated he believes this is a major change, and Mr. Lyon agreed. Mr. Auvil stressed the school is over 300,000 sq. ft., and the new 16,000 sq. ft. falls within the less than 10% that he can approve at the staff level. He went on to say he would have approved it at the staff level, if they were tearing down and rebuilding a stadium in the same location, but he

brought it before the Board since the property is undeveloped. He stressed this is a huge school complex, and the subject property has been owned by the school for years. He added it was also approved by the voters, and staff recommends approval as a minor change. Mr. Miller asked if the request for an athletic complex was already approved, and the minor change is to alter it. Mr. Auvil stated the funding for this project was approved as a voter referendum. Mr. Miller then asked how it is a minor change, if the Board has not approved the stadium. Mr. Auvil stated the original Special Use for the high school was approved in 1966, and Attorney Kolbus added they have returned to the Board since then a number of times for amendments. Mr. Campanello stressed his concern about how the commercial gravel pit was closed. He continued saying he believes they should ensure it was closed properly, since a school will be using the property. Mr. Auvil responded he does not believe that is for the Board to oversee. Mr. Campanello questioned drainage, and Mr. Auvil stated all of the MS4 rules will be followed. Mr. Campanello mentioned he is aware of problems on the subject property, which causes concern. He went on to suggest this come back as a DPUD, and Mr. Auvil responded staff disagrees. Mr. Campanello stressed the request is for a ten million dollar project, and he does not see that as a minor change. Mr. Auvil request the representative come and speak before the Board. Attorney Kolbus responded this is a Staff Item not a public hearing.

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

Motion: Action: Approved, **Moved by** Tony Campanello, **Seconded by** Denny Lyon that the Board determined this request to be a major change.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

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

Abstain: Randy Hesser.

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

10. The application of ***Benjamin R. Fry & Leanna G. Fry, Husband & Wife*** for a Special Use for an overnight campground (one unit) on property located on the North side of CR 50, 2,660 ft. West of SR 13, in Benton 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-0349-2019*.

There were three neighboring property owners notified of this request.

Benjamin Fry, 713 N. Main St., Topeka, was present for this request along with his wife Leanna Fry. He stated they purchased the subject property for hunting, and they typically stay at his daughter and son-in-law's residence on the neighboring property. He continued saying they would like to construct a small cabin on the property to have their own space. He explained they make maple syrup, and last year they produced over 750 gallons of syrup. He added the sugar camp is on his son-in-law's property, but they also use the sap from their woods. Mr. Atha questioned the difference in parcel size between the site plan and aerial. Mr. Hesser stated the aerial shows a rectangle, and Mr. Atha pointed out the site plan is for a stair step parcel. Mr. Fry explained the aerial only highlight a portion of his 44 acre property. Attorney Kolbus clarified the entire property was listed in the legal advertisements. Mr. Atha questioned the property to

the west, and Mr. Fry responded his daughter owns the 26 acres of woods to the west. He added beyond that is a field. Mr. Lyon clarified the property is accessed off of CR 50.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser clarified the proposed cabin will be 40'x20'. Mr. Fry explained the cement pad will be 40'x20' to keep varmints out of the cabin. Mr. Hesser reiterated the cabin will be placed on the cement pad. Mr. Fry added he may use his RV until he purchases a cabin. Mr. Hesser stressed the request is for personal use only. Mr. Atha questioned if a cabin must be placed on the property, and Mr. Hesser pointed out the request is for a campground.

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 an overnight campground (one unit) 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 5/13/19) 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.

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

11. The application of ***Boys and Girls Club of Greater Goshen, Inc.*** for an Amendment to an existing Special Use for a Boys and Girls Club to allow for building additions on property located on the West side of Northridge Dr., 1,140 ft. North of CR 16, common address of 56805 Northridge Dr. 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-0345-2019*.

There were two neighboring property owners notified of this request.

Crystal Welsh, Abonmarche, 1009 S. 9th St., was present representing the Boys and Girls Club. She explained they intend to expand the existing facility to accommodate more services and programming. She added representatives from the Boys and Girls Club are also present to answer any questions in regards to the operation. She stated they would like to increase the facility by a little more than 12,000 sq. ft., a significant increase, to add kitchen space and other needed services for the children. She stressed the new addition will increase the quality of their programming. Mr. Atha mentioned he had heard that additional security would be installed with the addition. Mrs. Welsh responded additional fencing will be installed with the expansion, and they also have plans for a future outdoor play area.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Joe Atha, **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 Boys and Girls Club to allow for building additions 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 5/13/19) and as represented in the Special Use Amendment application.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

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

Abstain: Randy Hesser.

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

12. The application of ***Board of Trustees of the Old Order Mennonite School of Elkhart County*** for an Amendment to an existing Special Use for a church school to allow for an office addition and to change the parcel size located on the South side of CR 46, 2,050 ft. West of CR 13, common address of 24390 CR 46 in Union 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-0310-2019*.

There were four neighboring property owners notified of this request.

Nathaniel Martin, 21911 CR 142, Goshen, was present for this request. He explained they plan to add a 12'x20' office addition to the school with more storage and a basement area to be used as a play room on rainy days. Mr. Hesser questioned the change in parcel size mentioned in the request, and he asked if land is being added. Mr. Auvil clarified the deed submitted with previous approval was for a larger area, and they plan to confine approval to the school area.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello pointed out the addition is only 240 sq. ft., and he does not have any concerns.

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 church school to allow for an office addition and to change the parcel size 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 5/3/19) 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.

13. The application of *Maxim I. Ivanov* for a Special Use for an indoor/outdoor recreation facility (wedding venue) and for a Developmental Variance to allow for an existing residence and the construction of a wedding venue on property with no road frontage served by an access easement located on the North end of the easement, 145 ft. North of CR 36, 1,560 ft. East of CR 19, common address of 20745 CR 36 in Elkhart 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-0351-2019*.

There were 40 neighboring property owners notified of this request.

Maxim Ivanov, 20745 CR 36, was present for this request and stated he would like to construct an event center/wedding venue. Mr. Campanello asked if he has experience operating a wedding venue, and Mr. Ivanov responded he is a chiropractor. However, he continued saying he owns a wedding venue in Russia, where he is from originally. Mr. Hesser pointed out the petition mentions the property is accessed through an unrecorded easement that serves as access to three parcels, and he asked which parcels it serves. Mr. Ivanov then pointed out three parcels he owns on the aerial, a total of 12.5 acres. Mr. Hesser also asked who owns the easement, and Attorney Kolbus responded the Board of County Commissioners. He then asked why the easement is not recorded. Mr. Auvil explained the property the easement crosses is a drainage ditch, and Attorney Kolbus added it runs parallel to the road. Mr. Auvil stressed the Commissioners acquired the property for drainage purposes, but an official easement was never granted. Mr. Hesser mentioned staff recommended an easement be recorded for one of the other requests being heard, and he asked if an easement is not necessary this time. Mr. Auvil responded he does not believe the Commissioners have a problem with this. He explained Staff does not see the easement agreement as pressing since the property is owned by the County Commissioners rather than a private party. Mr. Campanello asked the number of guests he anticipates. Mr. Ivanov responded the proposed building is 60'x100', which equals 6,000 sq. ft., and he would anticipate holding around 200 guests. Mr. Miller questioned the business on the adjacent property mentioned in the petition. Mr. Ivanov pointed out a retirement/assistant living community east of his property inside the city limits. He went on to say residences are also in that area, but traffic is heavier than a typical residential area. Mr. Lyon asked the petitioner, if he has spoken to the property owners to the west about his proposal, and he responded he has not spoken to any of his neighbors. Mr. Hesser questioned the area labeled jurisdiction transfer on the aerial, and he asked if the property has been incorporated into the City of Goshen. Attorney Kolbus explained the planning, zoning, and building jurisdictions have been transferred to the city, but the property has not yet been annexed. Mr. Hesser clarified the jurisdiction transfer is for the neighboring property, and it does not affect the subject property. Mr. Ivanov stated he plans to plant two to three rows of trees to make the area more private. He went on to point out the locations he plans to plant trees, along the front and side property lines. He stressed the venue will be isolated. Mr. Hesser clarified all parking will be located in the southwest corner of the property as designated on the site plan. Mr. Campanello asked if a DPUD would be a better

option for this property due to the needed parking, drainage, buffers, ect. Mr. Ivanov mentioned he also plans to install drainage along each side of his property, because water from the properties within the city limits drains onto his property. Mr. Auvil stated two routes can be followed to resolve the land use issues, a Special Use or a DPUD/Rezoning. He continued saying the route taken typically depends on the scope/scale of the use, and the Board can always require a revised site plan showing more details. He added they could also require a DPUD be filed, but both routes will reach a resolution. Mr. Hesser mentioned the Board has acted upon several wedding venue requests in the past few years, and Mr. Campanello added the Board has set time restrictions on them in the past.

Mr. Campanello asked for a raise of hands from those present opposed to this request and several hands were raised in the audience. He then request that a designated spokesperson voice their concerns to the Board. He also asked that anyone else who wishes to speak not repeat what the previous person has said.

Leanne Ivanov, 20745 CR 36, Goshen, was present in favor of this request. She stated they spoke to the owners of other wedding venues in the area, a few a mile away from them, that have had great success. She stressed they plan to keep everything local. She continued saying their goal is to keep the venue clean, classy, and well maintained. She added they will use caterers from Goshen in order to keep the operation local. Mr. Campanello asked if they have considered contracting a professional to draw up their site plan showing the berms ect. Mrs. Ivanov responded they spoke to a few excavators in the area, and they plan to complete that once they receive approval. She went on to say they want their operation to be successful and plan to work with other venues in the area. She explained the other venues have been completely booked, and their operators are in favor of this request. Mr. Campanello asked what they foresee investing into this venue. Mrs. Ivanov responded her husband has a very successful chiropractic office, and this is their newest project. She continued saying she is unsure of the investment, but she is willing to put in whatever it takes to succeed. Mr. Hesser asked if the petitioners live in the residence on the subject property, and she responded yes.

Gary Haney, 1614 Harvest Dr., Goshen, was present opposed to this request and submitted a petition against it signed by 55 members of the community *[Attached to file as Remonstrator Exhibit #1]*. Mr. Haney stated he is Vice-president of the Home Owners Association for Villas of Park Meadows, and he pointed out the subdivision on the aerial north of the subject property. He stressed their neighborhood is well-established as a quiet, mostly senior community, and he is one of the younger residents at age 69. He then also pointed out another senior community just east of the subject property. Mr. Haney stated everyone is concerned about the noise level, and events taking place until midnight. He pointed out soccer fields to the south, and he stressed they can hear the cheering at their residence. He continued saying rows of trees will not stop the noise from reaching them, and he is concerned it will be loud until midnight. He added when he spoke to staff about this request, he was told there were no restrictions against alcohol. He believes the music will be loud, and he is concerned about people leaving around midnight after drinking. He continued saying activities will likely go well past midnight, if police are not present to enforce it. He again stressed their biggest concern is the noise level, and this use is not a conducive to their neighborhood. Mr. Haney stated Goshen has several wedding venues, and he questioned the need for another one. He added a better place could be found to establish this operation than an existing quiet, senior citizen neighborhood. Mr. Campanello questioned the

use of the property west of their neighborhood, and Mr. Haney responded it is farm ground, another subdivision, and a personal storage building. He added that stretch of CR 19 is lined with residences. Mr. Campanello then questioned the use to the east. Mr. Haney responded a church along with houses and Clover Trails, a large development. He went on to say some residents in Clover Trails wanted to sign his petition against this request, but he decided to keep it within the Villas of Park Meadows. He reiterated noise, alcohol, and the hours of operation until midnight are their biggest concerns. He added another concern is the effect of this operation on their property values.

Harold Wiggins, 1624 Harvest Dr., came on in remonstrance. He explained he owned a service station/garage in Goshen, and he moved to this neighborhood when he retired nine years ago. Mr. Wiggins then pointed out his residence and the soccer fields on the aerial. He stated he can hear the noise from the fields at his residence, but the soccer fields are not used after dark. He stressed his main concern is the noise level despite the trees surrounding the subject property. Mr. Wiggins explained the property to the east has three nursing home facilities each containing about twelve residents. He added he purchased his residence, because the property behind it was a hay field. He then mentioned the property to the west, and he stressed it is a very upscale residence. He went on to say everyone is very concerned about the noise, and its potential to continue late into the evening. He stated he understands the excitement of owning your own business, but he does not want the additional noise in this area.

Heidi King, 1529 Firestar Dr., was present against this request and she stated their community did not have enough time to send around a petition. She request the opportunity to take a petition around their neighborhood. She added a few other neighboring property owners from their area are also present, but she was chosen to speak on their behalf. She stressed they have not had enough time to discuss this proposal within their community, and they just now heard the plans for the property. Mrs. King expressed their concern about the parking location along their back property lines, and the resulting light and noise. She explained their community signed a petition and met with the City of Goshen to prevent street lights from being installed in their community. She continued saying their reasons for opposing street lights were environmental and health focused, and venue lighting/headlights will be a problem. She stressed this venue will impact their lives in a huge way. Mrs. King stated their area has four nursing homes, but it still feels residential. She acknowledged traffic is heavier in the area due to the nursing houses, but she was in favor of placing them there due to their mission. She stressed they do not want to keep everything out, but they would like to consider how it will affect their community. She reiterated as a resident in this development, it still has the residential feel despite the nursing homes. Mrs. King then questioned the growth rate, size, and type of trees they will plant. She stressed a lot of details are unknown about this request. Mr. Campanello asked how she would feel about a church on the subject property. Mrs. King responded she believes a church would produce less noise than an event center, and alcohol is not a concern with a church. She went on to say she would still have some concerns, but not to the same extent. Mr. Campanello explained he was trying to consider a comparable situation.

Kacy Showalter, 1517 Firestar Dr., was present in remonstrance and stated she would also be against a church on the neighboring property. She continued saying she purchased and built on her property, because it was located in the country and quiet. She added she shares the same concerns as her neighbors. She also mentioned an additional concern about the effect of

this operation on her property value. Mr. Hesser stressed the subject property is zoned agricultural, and a duck or hog barn would be allowed by right. Mrs. Showalter responded she would not mind animals, and she would prefer that view to a wedding venue. She went on to say horses were in the pasture behind their residence when they purchased it, and she would prefer agricultural animals to a venue and noise. She added her husband works nights over the weekend, and she has concerns about being home alone with a parking lot right behind her residence. She stressed she does not want to be a bad neighbor, but she hoped the property would remain agricultural. She continued saying she would prefer hay or smelly animals behind her. Mr. Miller confirmed she would prefer 5,000 pigs on the property to the proposed operation, and he asked if she has ever been at a rural wedding venue around 11 p.m. Mrs. Showalter responded yes, and there was a lot of talking and noise. She added she can hear the neighbors' 4-wheelers at night when they drive by her window, and she stressed that is only one vehicle compared to 100 cars.

Rosanne Clark, 20881 CR 36, was present against this request as the owner of the property to the west. She explained her aunt and uncle constructed the residence in 2000, and they decided to raise their children there. She continued saying her grandmother lives down the road in Clover Creek, and her children are able to ride their bikes to visit her. She stressed she does not worry about the traffic, but she would no longer feel comfortable, if this request is approved, due to the amount of traffic it will cause. Mrs. Clark stated her cousin was married in a barn this summer, and they stayed late to enjoy it. She went on to say she noticed that the later it went, the louder it became, since the younger people stayed later, increasing the noise and drinking. However, she stressed that venue was in the middle of the country. She then submitted a petition signed by 30 residents from Clover Creek opposed to this request *[Attached to file as Remonstrator Exhibit #2]*. She stated one couple just moved into Clover Creek from a congested/noisy area, and they were disappointed to hear that this area could become similar. She request the Board consider keeping this property residential or agricultural. She added her daughter will show a dairy calf in 4-H for the first time this year, and she would prefer animals in this area. She stressed they plan to raise their children here, and those in the neighboring subdivision are probably in their last home. She went on to say the culture of the neighborhood is peaceful and quiet. She added it would be unreasonable for the 100 residents in this community to relocate, but it is reasonable to construct this venue in a different location. She explained she owns a business, works from home, and is in favor of entrepreneurship. However, she does not believe this is a good fit for the area. She added wedding venues are a need in Goshen, but other locations are available farther from senior citizen communities. She stressed the petitioners were aware of this community when they moved to the area in March. She went on to say she would support this operation and possibly even use their facility, if it was in a different location. Mrs. Clark stated another concern is that the operation is called an event center, and she frequently holds events in the evenings at different locations. She went on to say she does not believe this facility will strictly be for weddings, and they will most likely allow weeknight event on the property. She stressed this venue will not strictly operate only on weekends, and an event could potentially take place every night of the week. She added her sister was a nurse for the elderly, and she researched the effects of decreasing noise and lighting in the evenings. She went on to say that sleep increases health in the elderly, and she also does not want her children up all hours of the night. She mentioned vehicles driving by with the bass on can be heard until the end of

the mile. She then pointed out the woods the petitioner claims is a buffer between the event center and her residence, and she stressed leaves are only on the trees for a small part of the year. She continued saying the woods are see through the rest of the year. She added anyone will be able to see her property from the venue, and she is not comfortable with that. She stated they purchased their property, because her son loves the outdoors. She then pointed out her bedroom window that faces the proposed location for the event center. She stressed it is currently quiet, but an event could potentially be held there every night of the week. She again stated she plans to raise her family here, and she would like it to remain the same.

Mr. Ivanov came back on and stated they purchased this property to live on it. He continued saying they have five children, including a seven month old, and he will not operate a facility that jeopardizes his family. He continued saying the venue will be classy, and a brim will be installed to block the light. He then proceeded to address the noise concerns. He stressed a three acre property in addition to four acres of woods lie between the event center and the subdivision to the north. He added he hears noise on his property all the time, and he pointed out Grace Community Church is located a mile down the road from his property. He went on to say vehicles frequent the church, and people often park on CR 36 due to the lack of room on their property. Mr. Ivanov stated he could construct a hog farm on his property, and the smell would clear out the entire neighborhood. He went on to say that noise from a wedding venue would no longer be a concern, if hogs were on the property. He stressed he is striving to work hard, provide for his family, and live the American dream. He mentioned they enjoy riding 4-wheelers, which was part of the reason for purchasing 12.5 acres. He stressed he is trying to provide a better life for his family. He then went on to address the alcohol concern, and he stated he can hire security for events to keep it under control. He added the DJ will also control the music, and they can require the volume be lowered after a certain time. He mentioned he has a wedding venue back home. He stated his property is in the county, and he does not believe he should be held to the city standards. Mr. Campanello asked if the petitioner would be opposed to submitting a site plan showing the improvements he has mentioned such as the lighting, berms, trees, parking, ect. He continued saying staff recommended approval, but this operation will affect several people. He stressed the Board needs more details of how he plans to operate this facility. Mr. Ivanov asked if a designer should be contracted for a professional site plan, and Mr. Miller stated he also has concerns about this request. Mr. Ivanov responded he is willing to follow any stipulations that board imposes. He explained he did not want to spend the money on a designer for the Board to then deny it. Mr. Campanello stated the Board is responsible for land use only, but he feels as much information as possible should be provided to the neighbors.

Mrs. Ivanov came back on and stated they spoke to a few officers in the community regarding security. She continued saying several venues hire off-duty officers for security, and that would be a must for them. She explained anyone who books an event will need to follow their rules and regulations for noise and alcohol. She added venues near them have not had any problems, and security is present to monitor alcohol consumption. Mrs. Ivanov added a neighbor told them the previous owner of their property used a leaf blower around 4 p.m., and that noise bothered her. She stressed rules/regulations about noise will be in place along with security present. Mr. Campanello asked if the venue will be air conditioned, and she responded yes. He clarified the doors will remain closed during events.

The public hearing was closed at this time.

Mr. Miller stated he is leaning towards approval, but he believes more details are needed in regards to building location, parking, and drainage. He added the water from Clover Leaf runs into their property. Mr. Hesser asked if this request will affect drainage. Mr. Campanello stressed the design aspect of this request is very important. Mr. Hesser added he believes the owners living on the property will help prevent events from getting out of hand. He went on to say noise and odors can be expected when purchasing property abutting agricultural land. However, he stressed this use is not allowed by right, and the petitioner is asking for a business on agricultural property. He stated the neighborhood should be taken into consideration. He explained their proposal looks nice, and he would have no problem with the request, if it was not abutting a dense residential area. He continued saying when a commercial operation is being proposed in an agricultural zone, the neighborhood should be considered. He stressed he is leaning towards denial of this request, and he does not believe additional information will change his decision. Mr. Lyon asked if staff has anything to add, and Mr. Auvil responded a commercial project is required in addition to MS4 approval, if over an acre is disturbed. He added the building needs to meet commercial building code. Mr. Atha stated the property would look nice, once the trees have matured. However, other wedding venues have been placed in dense residential areas, and the neighbors were miserable. Mr. Campanello mentioned previous request have been approved for a specified amount of time, and he suggested a one or two year time period be imposed. Mr. Hesser pointed out a time restriction may not be feasible in this case, because the petitioners plan is to construct a new building for the venue. He continued saying he believes it would be unfair to deny a renewal after the building is constructed. Mr. Atha explained a new, air-conditioned, closed building would be similar to a church, and one cannot typically hear music outside of a church. Mr. Auvil pointed out most wedding venues that come before the Board are in existing, older barns that were not meant to be sound-proof. He continued saying time restrictions are typically added to those approvals. Mr. Campanello clarified the proposed building will be constructed to state code and approved by MS4.

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 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/13/19) and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for an existing residence and the construction of a wedding venue on property with no road frontage served by an access easement be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the

grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).

2. The request is approved in accordance with the site plan submitted (dated 5/13/19) and as represented in the Developmental Variance application.

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

Yes: Tony Campanello, Roger Miller, Denny Lyon.

No: Joe Atha, Randy Hesser.

Mr. Hesser thanked the petitioners and remonstrators for being civil and respectful towards each other during the hearing.

14. The application of *Orley W. Yoder & Dianna Kay Yoder, Husband & Wife* for an amendment to an existing Special Use for a home workshop/business for a buggy shop (1) to associate the Special Use with a reconfigured parcel, (2) to allow for the construction of an addition to the buggy shop, (3) to allow for 3 outside employees (Ordinance allows 2 outside employees), for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for the construction of a residence on property with no road frontage served by an access easement located on the West side of East County Line Rd., 3,000 ft. North of CR 34, 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-0346-2019*.

There were four neighboring property owners notified of this request.

Harley Bontrager, 57342 CR 116, Middlebury, was present representing the petitioners. He explained the petitioner would like to construct an addition to his existing buggy shop and add another outside employee. Mr. Hesser asked if the new residence will replace the existing one or create a second residence, because the site plan is unclear. Mr. Bontrager explained the petitioner currently lives in the existing residence, but his son plans to move into it. He continued saying the petitioner would then like to construct a new residence on the back portion of the property for himself. He added the property at that time will be reconfigured, and his son will purchase part of it. He stated the proposed residence will be located behind the shop. Mr. Hesser pointed out the site plan does not appear to match the aerial. It was found that the solid lines on the site plan represent the current property lines, and the dotted lines represent the proposed property configuration. He clarified the request is to create a new parcel served by an access easement for the proposed residence. Mr. Lyon added staff suggested requiring an access and maintenance agreement be recorded for the property. Mr. Bontrager then pointed out the proposed new parcel on the aerial, and he added he will be the contractor for this job.

Mr. Miller clarified the request is for approval of an addition to the shop and a new residence. Mr. Hesser stated he understands the buggy shop is currently on a larger parcel, and they would like to create a parcel for the future residence and the buggy shop.

Orley Yoder, 62419 East County Line Rd., was present for this request as the property owner. He explained he owns the buggy shop, and his son who currently works for him would like to take it over. He continued saying he does not have enough money to purchase the entire property, and he would like to stay on there. He mentioned they decided to construct a small residence behind the buggy shop, and they need to reconfigure the property lines to make that

possible. He stated they need the shop addition, because one of his neighbor does part of the work at his sub-shop. However, he continued he is getting older and will not be able to continue working much longer. He stressed in order to continue this operation; they felt an addition was needed and another employee to take over that work. Attorney Kolbus pointed out the request makes more sense looking at the proposed property lines.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello asked if every item should be addressed separately, and Attorney Kolbus responded it can be acted upon in one motion. Mr. Hesser stated he is inclined to deny this request as it is proposed, because he does not believe it is necessary to create a new parcel without road frontage. He continued saying it appears the southern portion of the driveway could be included with the new parcel. Attorney Kolbus pointed out that configuration would require a lot-width Developmental Variance. Mr. Hesser asked if a 7 to 1 Developmental Variance would also be needed, and he suggested the property owners still have a joint driveway agreement. Mr. Hesser stressed he does not see the need to create a parcel without road frontage. Mr. Atha asked if the request is for two houses on one parcel, and Mr. Hesser responded each one will be on its own property. Mr. Atha responded it will appear as one parcel from the road, and Mr. Hesser stressed the petitioners do not need to create a parcel without access. He continued saying he believes the new parcel can be given road frontage, and the Board is concerned about when unrelated parties purchase the properties 30 years from now. He stated he believes this problem is easily avoided. Mr. Campanello suggested a commitment be added requiring a recorded easement. Mr. Miller agreed he is concerned about the property being sold to separate parties in the future. Mr. Hesser stated adding road frontage to the proposed lot would create a flag pole property, but he would prefer that to no road frontage. He then asked if a 7 to 1 Developmental Variance would need to be acted on separately, and Attorney Kolbus responded he is unsure without knowing the measurements. Mr. Hesser responded a 7 to 1 Developmental Variance would be required for a property with only 30 ft. road frontage. Mr. Auvil pointed out a 7 to 1 Developmental Variance does not apply to land-locked parcels, because it is based on road frontage. He stressed the property is currently split into two parcels, and the petitioner is simply asking to reconfigure those parcels. He went on to say the home workshop/business Special Use was tied to the existing residence, and they would like to associate it with the new residence/parcel. Mr. Atha stated he is concern about two houses on one parcel, and Mr. Hesser stressed the new parcel does not currently have a residence. Mr. Atha responded he understands, but it will be a dense use. Mr. Campanello explained both parcels will share the same drive, and he asked if the Board is looking too far into the future with their access concerns. Mr. Auvil stressed staff asked for a recorded access easement to avoid future problems with the land-locked parcel. Mr. Hesser stated he understands the recorded easement is one way to handle this request, but a land-locked parcel is still being created for no reason. He went on to say he is not in favor of approving a parcel without road frontage, and he believes staff could approve a new site plan with the property reconfigured to include the driveway. Mr. Auvil pointed out that designing this configuration would require a lot-width Developmental Variance. He stressed several properties in the county are served by access easements. Mr. Hesser stated he does not believe the county approves those requests anymore,

and Mr. Auvil pointed out the wedding venue previously heard did not have a recorded easement. Mr. Hesser mentioned the county owned part of the property involved in that request.

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 an amendment to an existing Special Use for a home workshop/business for a buggy shop (1) to associate the Special Use with a reconfigured parcel, (2) to allow for the construction of an addition to the buggy shop, (3) to allow for 3 outside employees (Ordinance allows 2 outside employees) 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 5/13/19) and as represented in the Special Use Amendment application.

Further, the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and a Developmental Variance to allow for the construction of a residence on property with no road frontage served by an access easement be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 5/13/19) and as represented in the Developmental Variance application.
3. An access easement and maintenance agreement must be recorded.

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

Yes: Tony Campanello, Denny Lyon.

No: Joe Atha, Roger Miller, Randy Hesser.

Mr. Lyon asked Mr. Atha his reason for being opposed to the second residence, and Mr. Atha responded it appears to be a housing compound. He continued saying he realizes the residences will be on two separate parcels, but it will appear as one from the road. Mr. Campanello explained it is similar to an accessory dwelling. Mr. Hesser stated he does not have a problem expanding the Special Use, but he is inclined to table the request. He suggested giving the petitioners an opportunity to reconfigure the parcels to address the Board's concerns and revise the site plan accordingly. Attorney Kolbus clarified Mr. Hesser is in favor of the requests that pertain to the home workshop business, and he pointed out they can be dealt with separately. Mr. Hesser stressed he is opposed to the creation of a separate parcel, and he does not want to approve the home workshop/business on property with no road frontage. Mr. Campanello pointed out both parcels will have a shared access easement. Attorney Kolbus clarified Mr. Hesser is inclined to table the entire request. Mr. Auvil stressed the petitioner's son

cannot afford to purchase the entire property, and their plan is to create two viable parcels with residences. He continued saying the petitioners would like to have enough road frontage to accomplish this without Developmental Variances, but this Board is in place to allow these situations. He added he is unsure how a revised site plan can accomplish the petitioner's goal without any Board action. He explained he worked with the contractor for about an hour, and this was the best possible solution that they found. Mr. Hesser suggested the site plan be modified to include the existing drive with the new parcel, and he stressed that will provide viable access to the property. Mr. Campanello argued viable access is shown on the submitted site plan, and Mr. Miller pointed out access is through an easement. It was brought to the Board's attention that the driveway was not included with the new parcel, because the accessory structure to the north would not meet the required setback. Mr. Hesser questioned the owner of the property to the south, and it was found to be a church. He went on to say the church building is up against the south property line, and that line would not change. Mr. Campanello pointed out the properties will be cleaned up when sold, and Mr. Auvil responded approval of this request will clean it up with an access easement.

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 an amendment to an existing Special Use for a home workshop/business for a buggy shop (1) to associate the Special Use with a reconfigured parcel, (2) to allow for the construction of an addition to the buggy shop, (3) to allow for 3 outside employees (Ordinance allows 2 outside employees) 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 5/13/19) and as represented in the Special Use Amendment application.

Further, the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and a Developmental Variance to allow for the construction of a residence on property with no road frontage served by an access easement be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 5/13/19) and as represented in the Developmental Variance application.
3. An access easement and maintenance agreement must be recorded.

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

Yes: Joe Atha, Tony Campanello, Denny Lyon.

No: Roger Miller, Randy Hesser.

15. The application of *Leon Miller & Jolene Miller, Husband & Wife* for a Use Variance to allow for the construction of a second dwelling on a parcel, for a Special Use for an agricultural use for the keeping of animals and wholesale egg production on a tract of land containing less than 3 acres, and for a 7 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for the construction of a residence 68 ft. from the centerline of the right-of-way located on the South side of CR 48, 4,670 ft. West of US 33, common address of 13540 CR 48 in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0291-2019*.

There were three neighboring property owners notified of this request.

Leon Miller, 13540 CR 48, Syracuse, was present for this request. Mr. Hesser asked how soon the existing residence will be removed once the new one is completed, and he responded it will be removed by spring. Mr. Hesser also asked when he plans to have the residence completed, and Mr. Leon Miller responded December or January. Mr. Hesser clarified six months will be long enough to remove it. Mr. Lyon asked why the proposed residence cannot be moved back 7 ft. to meet the required setback. Mr. Leon Miller pointed out an accessory structure close to the proposed residence that he would like to keep. Mr. Lyon stated the site plan shows plenty of room between the two buildings, and Mr. Leon Miller responded he would like to keep the driveway in between the buildings for a turn-around. Mr. Hesser clarified moving the proposed residence to meet the required setback would cut into the existing driveway.

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** 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 Use Variance to allow for the construction of a second dwelling on a parcel 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. The existing residence must be removed from the property within sixty (60) days of the issuance of the Certificate of Occupancy for the new residence.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/23/19) and as represented in the Use Variance application.

Furterh, the motion also included that a Special Use for an agricultural use for the keeping of animals and wholesale egg production on a tract of land containing less than 3 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/23/19) and as represented in the Special Use application.

The motion also included that a 7 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for the construction of a residence 68 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 4/23/19) and as represented in the Developmental Variance application.

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

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

16. The application of *Jason L. Miller & Lanita M. Miller, Husband & Wife* for a Use Variance to allow for the construction of a second dwelling on a parcel located on the West side of East County Line Rd., 2,190 ft. South of CR 36, common address of 64369 E. County Line Rd. 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 #UV-0350-2019*.

There were nine neighboring property owners notified of this request.

Clayton Bontrager, 13838 CR 34, Goshen, was present representing the petitioners as the general contractor for the project. He stated they would like to live in their existing residence while the new one is under construction, and they will tear it down within 6 months of the issuance of the Certificate of Occupancy for the new residence.

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 a second dwelling on a parcel 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. The existing residence must be removed from the property within sixty (60) days of the issuance of the Certificate of Occupancy for the new residence.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/13/19) 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.

17. Mr. Godlewski introduced Doug Powers as the new planner.
18. Mr. Godlewski stated the Zoning Ordinance committee met last week, and they will meet again July 10th to evaluate the proposed minor changes to the Ordinance. He continued saying the first meeting went well, and they will a meet in August. He explained the changes being addressed include Special Use signs and two dwellings on one parcel. Mr. Miller asked if chickens will be addressed, and Mr. Godlewski responded no.
19. The staff item for the Town of Wakarusa (SUP-0814-2017) was previously heard as item #7 on page 3.
20. The staff item for Tod W. DeBolt & Stephanie S. DeBolt, Husband & Wife (Buyers) & Bruce A. Showalter, Steven G. Showalter, Michael K. Showalter Tenants in Common (Rose Ann Showalter Life Estate (Sellers) (UV-0107-2019) was previously heard as item #8 on page 4.
21. The staff item for Middlebury Community Schools was previously heard as item #9 on page 4.
22. The meeting was adjourned at 11:04 a.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary