

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21st DAY OF NOVEMBER 2019 AT 8:30 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: 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, Randy Hesser.

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

3. A motion was made and seconded (*Miller/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 ***Eric Brown*** for a Special Use for a ground-mounted solar array on property located on the West side of CR 3, 350 ft. North of CR 38, common address of 64905 CR 3 in Olive Township, zoned A-1, came on to be heard.

There were six neighboring property owners notified of this request.

Mr. Miller stated he believes the petitioner's family request this matter be withdrawn. A letter requesting the withdrawal was included in the Board member's packets. Attorney Kolbus explained the Board needs to move to accept the withdrawal.

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by** Roger Miller, **Seconded by** Denny Lyon that this request for a Special Use for a ground-mounted solar array be withdrawn at the request of the petitioner's family.

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 ***Yoder Family Revocable Living Trust, Marvin E. Yoder & Ester A. Yoder, Trustees and Glen D. Yoder & Joella K. Yoder, Husband & Wife*** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres located on the North side of CR 34, 1,400 ft. East of CR 43, common address of 10483 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0774-2019*.

There were eight neighboring property owners notified of this request.

Jim Yoder, 62697 CR 29, was present representing the petitioners. Mr. Atha questioned the location of the pasture and the type of animals. Mr. Yoder responded the petitioners have two horses for transportation, and he pointed out the location for the proposed residence, barn, septic, and pasture on the aerial. He continued saying the owner understands the pasture will not be large enough for two horses, and he plans to purchase a majority of the hay. He added the pasture will be used for exercise more than food. Mr. Hesser pointed out the site plan does not show the pasture area, and he asked its approximate size. Mr. Yoder pointed out the proposed location on the aerial. Mr. Atha asked if an open body of water is adjacent to the pasture area. Mr. Yoder responded it is a marsh area, and Mr. Atha questioned if it drains into the lake. Mr. Yoder responded he believes the marsh overflows across CR 34 instead of flowing into the lake. Mr. Atha clarified the water from the marsh area will typically flow through the soil before reaching the lake. Mr. Hesser questioned waste removal due to the small pasture size. Mr. Yoder responded the surrounding property is owned by the same trust, and the petitioners' son lives on the neighboring property. He continued saying the waste will be spread on the neighboring property. Mr. Atha asked if one of the buildings on the neighboring property is a chicken barn, and Mr. Yoder responded yes. He noted the residence and garage pictured on the aerial have been removed, and the property is currently vacant land.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals 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 10/14/19) 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 *Atlee M. Troyer & Norma J. Troyer, Husband & Wife* for a Special Use for a home workshop/business for a coffee/snack shop on property located on the South side of CR 24, 1,000 ft. East of CR 43, common address of 10582 CR 24 in Middlebury Township, zoned A-1, came on to be heard.

There were nine neighboring property owners notified of this request.

Mr. Miller stated he believes this petition is also being withdrawn. Mr. Auvil submitted an email from the petitioners requesting this matter be withdrawn [Attached to file as Staff Exhibit #1].

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 this request for a Special Use for a home workshop/business for a coffee/snack shop be withdrawn at the request 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. The application of **John D. Miller & Nancy A. Miller, Husband & Wife** for a Special Use for a beauty shop on property located on the West side of CR 133, 630 ft. South of CR 52, common address of 71621 CR 133 in Benton Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0765-2019*.

There were 18 neighboring property owners notified of this request.

Nancy Miller, 71621 CR 133, Syracuse, was present for this request. Mr. Miller asked if the request is for an addition to an existing building, and Mrs. Miller responded no. She explained they purchased the residence in July, and the previous owners, who constructed the residence in 2008, built a salon inside it to work from home. She continued saying the salon is fully equipped, and they would like permission to rent it out. Mr. Atha clarified the salon will be operated by an outside employee, and Mrs. Miller added the salon has a separate entrance. She stressed clients will not have access to the residence, because the salon is in a separate area. Mr. Hesser questioned the number of chairs in the salon, and Mrs. Miller responded two. He also asked if the salon will allow walk-ins or be by appointment only. Mrs. Miller stated she is unsure how the previous owner operated, but she would assume it will be by appointment only due to the location. She noted this property is located in the country a long lane back to the residence.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus stated the Board can impose additional Commitments such as allowing clients by appointment only, etc. Mr. Lyon suggested the Board wait to see how the salon operates before adding more Commitments. Attorney Kolbus pointed out the salon only has two chairs, and Mr. Miller added it will not hold very many clients. Mr. Atha asked if the Board would like to revisit this request, and Mr. Campanello responded no. Mr. Miller noted a salon will not make a major impact on the neighborhood. Mr. Campanello mentioned many stylists already have clients and just need a salon. Mr. Hesser pointed out previous approval was for the owner/occupant of the residence, and removal of that requirement appears to be the only change with the new request.

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 a beauty 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/11/19) and as represented in the Special Use application.

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

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

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

8. Mrs. Kratzer presented the staff item for Concord Little League. She explained the Minor Change request is to amend the approved Special Use site plan to allow for an addition to the existing restroom, storage, and pavilion structure. Attorney Kolbus explained the Board needs to either approve the request as a minor change, or declare it a major change and require a public hearing.

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 approve this request as a minor 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*****

9. The application of *Jerry L. Miller & LaVera Miller, Husband & Wife (Land Contract Holders) & Norman & Ruby Mast, Husband & Wife (Land Contract Purchasers)* for a Special Use for a home workshop/business for wholesale distribution of general merchandise on property located on the East side of CR 37, 1,200 ft. South of CR 34, common address of 63242 CR 37 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0767-2019*.

There were nine neighboring property owners notified of this request.

Norman Mast, 63242 CR 37, Goshen, was present for this request and stated he would like permission to operate a home workshop/business. Mr. Atha questioned the type of wholesale. Mr. Mast explained they plan to distribute wholesale, general merchandise, gift items, etc. to Amish Stores. Mr. Atha clarified their merchandise will be similar to what is typically found in a general store. Mr. Miller pointed out no retail sales will take place on site. Mr. Atha noted the petition mentions increased traffic as only one truck a day and no semis. Mr. Campanello added a semi has room to turn around on the property. Mr. Atha explained he is okay allowing semis, but no turn-around is shown on the site plan.

Nate Nisley, 13752 CR 34, Goshen, was present in favor of this request. He stated they operated this business for the last six years and would now like to pass it on. He continued saying it is a nice home workshop/business with minimal traffic and no retail component. He added a non-residential receiving address would benefit the petitioner, because UPS and FedEx add a \$5 to \$7 surcharge on any packages to a residential address. Mr. Atha responded the Board does not have jurisdiction over addresses.

There were no remonstrators present.
The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Joe Atha, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for wholesale distribution of general merchandise 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 10/11/19) and as represented in the Special Use application.

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

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

10. The application of **Brad Beer** for a Special Use for an agricultural use for the keeping of animals and farm equipment on property located on the Southwest side of CR 16, 1,200 ft. South of US 20, common address of 24682 CR 16 in Concord Township, zoned R-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0760-2019*.

There were 49 neighboring property owners notified of this request.

Brad Beer, 25886 CR 24, Elkhart, came on for this request and stated he recently purchased the golf course. He continued saying he has a hobby farm with 10 goats, 7 chickens, 2 ducks, and additional 4-H animals at times. He explained they plan to make trails for hiking, riding 4-wheelers/dirt bikes, and fishing in the pond. Mr. Lyon questioned if the petitioner plans to subdivide the property. Mr. Beer responded it cannot be developed, because a large part is in a flood plain. Mr. Atha clarified the petitioner plans to increase the number of animals from what he currently owns. Mr. Beer responded he put a few extra on the application, because they sometimes have 4-H animals. He stressed he is not a farmer, but they do participate in 4-H. Mr. Atha asked if he plans to expand the pasture from the size shown on the site plan. Mr. Beer explained the site plan reflects his current use, but the size would increase, if his son decided to get a horse or other large animal. However, he went on to say that is not the current plan, because his wife is against having horses. Mr. Atha questioned where the larger animals would be kept. Mr. Beer responded he has never had horses, cows, or sheep, and he is unsure how much room they require. He noted the number they may have of each animal, and it would be extremely limited. He stressed they would increase the size of the pasture, if the animals needed more land. Mr. Hesser asked if the entire parcel is fenced in, and the petitioner responded none of it is currently fenced in. He then pointed out a cart barn on the aerial where he plans to keep the goats and chickens. He noted he currently has 10 goats, 7 chickens, and 2 ducks that will stay in the cart barn with a small fenced in area. Mr. Atha mentioned the cart barn and small pasture are reflected on the site plan. Mr. Hesser stated he assumed they already owned cows and horses. Mr. Miller pointed out the application request permission for four horses and four cows. Mr. Atha stressed his concern was its proximity to the river or any ditches, but the animals are a significant distance

away from any water ways. He continued saying he would prefer the pasture be larger with grass cover. Mr. Beer stated the property is currently grass covered, but grass does not last wherever goats live. He explained he request a few additional goats along with cows and horses to allow for 4-H animals. Mr. Hesser asked where he would keep cows and horses. Mr. Beer responded he does not have any yet, but he was told by staff to request a few, if he would like them later, to avoid needing another meeting. Mr. Hesser stressed he would like to know where cows and horses will be kept before the Board approves them. Mr. Beer responded they would add a pasture area close to the other animals, and he could come back before the Board at that time. He continued saying staff believed the number of animals would be okay, since it is a large property. He noted he did not want to come back before the Board. He added he kept the requested number of animals low, because he does not currently plan to get that many. Mr. Atha noted his concern is that the barn on the site plan appears relatively small for the number of animals requested. Mr. Campanello stressed the Board should focus on land use, and Mr. Hesser responded it is also important to know where the cows and horses will be housed/contained. Mr. Campanello stated he does not believe the petitioner is asking requesting permission to have cows and horses. Mr. Miller then read the request from the application, "up to twelve chickens, four horses, four cows, fifteen goats, six sheep, two donkeys, a tree farm, and a large garden." Mr. Atha mentioned he does not have a problem with the use, but the site plan does not show everything.

Kevin Miller, 56717 Old Orchard Ln., came on neither against nor for this request, but with questions. He stated he understands the petitioner would like permission for twelve horses, eight cows, chickens, donkeys, and goats. He stressed his main question is if the county has an established stand-off zone, so the petitioner's animals cannot interact with the neighboring properties. He then asked if the EPA, Environmental Protection Agency, will be involved, since the property is a water shed interacting with animal waste. He also asked if the EPA will be notified of the use or should he notify them. He questioned disposal of animal waste, and if approval of the request will reduce property values from the smell and noise. Mr. Roger Miller clarified he resides on Old Orchard Ln., and Mr. Kevin Miller pointed out his residence on the aerial. Mr. Atha explained, if any organization is notified, it would be the NRCS, because they have rules for keeping animals. Mr. Kevin Miller questioned the meaning of NRCS, and Mr. Atha responded it stands for Natural Resources Conservation Service. Mr. Kevin Miller then asked if the NRCS is located locally or in Indy. Mr. Atha stated the NRCS is located locally at the fairgrounds along with Soil and Water. He went on to say the organizations main concern is water quality, and the animals will be a distance away from a water source. He also noted the petitioner can answer waste disposal questions. Mr. Campanello questioned the difference between fertilizer used by the golf course and animal waste. Mr. Atha stressed the golf course likely used more fertilizer than an agricultural field, and the water shed should improve. Mr. Kevin Miller questioned the repercussions, if the petitioner exceeds the number of animals approved by the Board. Mr. Atha responded the neighbors can report any extra animals to the Planning and Development Department. Mr. Roger Miller noted each horse could have a colt without violating approval. He stressed the restriction only applies to adult animals, and they could also have young animals without violating approval. Mr. Kevin Miller questioned what happens if the petitioner keeps the animals after they grow up, and Mr. Roger Miller responded the animals violate approval once they mature. Mr. Atha also noted the questionnaire and testimony are part of the record, and it is up to the neighbors to inform staff when the rules are not followed. Attorney Kolbus added

they will ask the petitioner to specifically identify the type and number of animals, and the Board then makes the final decision on what is allowed. Mr. Kevin Miller mentioned the site plan does not show a place for the animals to stay in the winter, and he asked where a barn will be constructed. He went on to say he believes the petitioner plans to remodel the club house into a residence for himself.

Jilane Faigh, 56643 Old Orchard Ln., was present opposed to this request and pointed out her residence on the aerial. She stated her concern is that they had an easement along the back of their properties, when the subject property was a golf course, to move dirt, mulch, etc. to their properties. She went on to say they referred to it as the easement road, and she asked if it still exists. Mr. Lyon asked if the easement is on the recorded subdivision plat. Mrs. Faigh responded she is unsure, but the neighbors all use the easement. She added she also has concerns about the tree farm/logging mentioned in the application, and several trees marked are already marked with red x's. She asked if semis will be utilized on the property and if the petitioner plans to start a logging business. She then questioned if the entire property will eventually be fenced in and the horses allowed to roam back by the ponds. She also noted a concern about 4-wheelers/dirt bike usage and trails. She went on to ask if they will ride 4-wheelers/dirt bikes day and night, and she stressed the neighbors do not want the noise that will produce. She stressed the golf course was peaceful after daily operations ceased. She then asked where the manure will be spread. She also reiterated her concerns about the easement, logging, manure, fence, 4-wheelers/dirt bikes, and trails. She stressed the proposed uses are all new to the neighbors, and she has lived at her residence for 36 years.

Randy Coyle, 24788 CR 16, Elkhart, was present opposed to this request and pointed out his property on the aerial. He also pointed out a 100 ft. wide easement that extends between him and the petitioner, and he also noted the property served by the easement. He then pointed out a deep slope in the property where he has seen four feet of water run from the subject property, along the back of his property, across Indiana Ave., and end in the river. He explained a few years ago the water was over his fence posts, and Mr. Campanello clarified it was during the county-wide flood. Mr. Coyle added the golf course owner pumped water across the back of his property. He pointed out a hill on his property, that the previous golf course owner believed was part of the subject property. He mentioned a green was constructed on the easement, because they believed it was owned by the golf course. He stated the owner was upset with the placement of his survey stakes, and he has the original survey. He noted his concern is that the easement remains an easement, because the golf course's former owner cut down trees on the easement to provide more air for his green. Mr. Atha stressed the Board only considers the subject property. Mr. Hesser questioned the owner of the easement and parcel it serves. Mr. Coyle responded he was informed it was owned by the man who owns Wells Fargo, but he is unsure. Mr. Lyon stressed the property is privately owned. Mr. Coyle then pointed out a service building on the aerial. He continued saying the building the petitioner proposed keeping the animals in is very small, and he believes the service building would be better suited for the animals. He stressed he wants to ensure the easement is maintained. Mr. Lyon explained the property should have documentation for the easement. Mr. Coyle reiterated the easement is privately owned, not a county easement.

Michael Green, 56698 Old Orchard Ln., came on against this request. He stated his concern that almost the entire property is a flood plain, and it has flooded several times throughout the years. He stressed he believes the entire property will take on the waste regardless of the

animals location. He stated he is concerned about the smell and ATV use. He explained he grew up on a farm and it smelled. He continued saying the area surrounding the subject property is residential, and there is no farm smell. He noted donkeys, cows, and chickens smell, and he is concerned about the effect on the surrounding property values. He mentioned he is 52, and he has lived on the property since he was three. He stressed the area is quiet and dark, and he is concerned about ATV use and parties on the property.

Denise Green, 24539 CR 16, also the owner of 56698 Orchard Ln., was present in remonstrance and pointed out her property on the aerial. She explained she lives off of CR 16, but she also purchased the property on Old Orchard Ln. after her grandparents passed away. Mrs. Green stated entrepreneurship is great, but they have lived in this neighborhood their entire lives. She expressed her concern about the animals. She then pointed out a property on the aerial that has roosters, and it took her a while to adjust to roosters waking her up every morning. She went on to say the roosters now actually help her be on time, and she compared it to people adjusting to living near train tracks. She stated the neighbors will need to adjust to the animals. However, she continued saying she believes a business would try to grow, and increase the number of animals. She added this operation does not appear to only be family pets. She stressed animals make sounds that take time to grow accustomed to. She added the neighbors are also aware of flooding in this area. Mrs. Green stated she is concerned about the future of this operation, and she believes this is a business that should be handled differently than pets. She added she believes approval will result in a large amount of noise at night, and she assumes they will have roosters in addition to chickens. She reiterated this seems okay as a small operation, but she questioned where it will go in the future.

Matthew Adcock, 24675 CR 16, a property owner across the street from Old Orchard Subdivision came on against this request. He stated he would like to know the plans for waste disposal and any farm equipment use. He continued asking if farm equipment will use the road resulting in increased traffic. He added he is in support of 4-wheeler and trail use. He clarified he wants to ensure the animal waste will not affect their well water. He noted he has lived on his property for 21 years, and his grandmother owned the property before him.

Denise Green came back on with an additional concern. She stated this property is located in the country where people own and shoot guns on a regular basis. She continued saying target shooting and hunting happen frequently in the area, and she questioned the affect gun usage will have on animals. Mr. Atha clarified she is concerned with the well-being of the animals, and she responded her concern is people's safety. She continued saying they hear gun shots at any given time during deer season.

Jilane Faigh came back on to add to the hunting concern. Mr. Miller stressed the Board does not have any authority over hunting, and this request is only focused on the subject property. He added hunting is allowed by right, and the Board is not making any ruling involving hunting. Mrs. Faigh asked if the petitioner will hunt, and Mr. Miller responded no.

Sam Yoder, 56697 Old Orchard Ln., came on opposed to the request and pointed out his property on the aerial. He stated the pool in his backyard is only 10 ft. from the property line, and a new chain link fence was just installed that is not designed to keep animals out. Mr. Lyon clarified the fence is on Mr. Yoder's property. Mr. Yoder went on to say he is concerned about the livestock affecting backyard activities. He added this use could also expand in the future. Mr. Lyon asked if he is aware of an easement along the back of his property. Mr. Yoder responded he

understands the easement extends from the road to the end of the subdivision. Mr. Hesser questioned the use of the easement, and Mr. Yoder responded access to their back yards. Mr. Campanello stressed the mentioned easement is not for utilities, and he assumes it was set up by the golf course to allow owners access to their property. He added he does not believe the easement is recorded since it does not show on the aerial. Mrs. Kratzer noted a recorded easement does not necessarily show up on the aerial. Mr. Campanello again stated the mentioned easement was likely an agreement between the golf course and neighboring property owners. Mr. Miller stressed the petitioner is only allowed the amount of animals approved by the Board. Mr. Yoder mentioned that it was stated earlier that foals do not count towards the number of animals allowed, and he asked at what age the animals need to be removed from the property. He also questioned if this operation will become an agricultural business rather than a hobby farm, and he pointed out the surrounding area is residential. Mr. Campanello explained a neighboring property owner in the subdivision could request twelve chickens, and the Board typically approves similar them. Mr. Yoder responded it is up to the Board to approve or deny the requests.

Mr. Beer came back on and stated he wishes this request was for a business, because they spend a lot of money on their animals. He added his residence will be right next to the animals, so they will smell them before the neighbors. He mentioned he is not opposed to setting a 100 ft. barrier between the animals and neighboring property owners for their comfort, because the animals will not be close to the property line. He noted a fence will not be installed along the property line, and he has no problem with the neighbors driving over his property to access their backyards. Mr. Atha request the petitioner address the tree farm concern. Mr. Beer explained he spoke to a harvester who informed him the wooded area will be healthier, and he can make some extra money by removing some of the mature trees. He continued saying the adolescent trees will remain, and the area will improve by removing trees every five years or more. He added they considered planting some apple trees not for a business but personal use due to the property size. He noted they may also plant some Christmas trees to donate. Mr. Hesser stated the petitioner does not plan to install a fence, and Mr. Beer responded the only fence on the property will be for the goats and chickens to be kept. Mr. Hesser clarified no fencing has been proposed for horses or cows. Mr. Beer noted he may not ever have a horse or cow, but he request it in case his son decides he would like to show one for 4-H. Mr. Hesser stressed he is not in favor of approving horses or cows without a site plan showing containment of the animals. Mr. Campanello suggested the petitioner come back before the Board, if he decides to have a horse or cow. Mr. Hesser explained the Board questioned the pasture size, because horses and cows were mentioned in the application. Mr. Beer responded staff recommended he list all animals on the application that he may want in the future. Mr. Atha asked if a site plan could be submitted for staff approval showing a pasture area for the larger animals. Mr. Beer mentioned he is willing to keep the fence and animals 100 yds. from the property lines. Mr. Lyon noted that equals 300 ft. Mr. Atha stated Soil and Water maintains that a 30 to 40 ft. buffer between a poorly maintained pasture is enough to keep the water from being contaminated. Mr. Beer responded he is willing to leave 300 ft. between the pasture and river. Mr. Atha asked the number of animals he would like approved not including horses or cows. Mr. Hesser again read the number and types of animals listed on the application. Mr. Beer responded he was told by staff to list all animals he may want, since he owns 72 acres. Mr. Hesser asked the number of goats he plans to own. Mr. Beer responded he currently owns ten goats, and he may purchase two dwarf goats to have a total of 12 goats. He went on to say their

goats are old and dying. He explained his father had a stroke, and they inherited his ten goats. Mr. Hesser asked if they have any sheep. Mr. Beer stated they had two sheep for 4-H, but they were sold at the end of the fair. Mr. Hesser questioned if they plan to continue 4-H, and Mr. Beer responded yes. Mr. Atha clarified the petitioner will likely have two sheep at a time. Mr. Beer noted sheep die easily, and they purchase two just in case. Mr. Atha mentioned the petitioner has two children, and he asked if each one shows two sheep. Mr. Beer responded they could potentially have of four sheep, but they would only be on the property from February until the end of the fair. Mr. Atha then questioned the donkeys. Mr. Beer stated he listed them, because he thought they were cute. Mr. Lyon asked if the horses and cows should be eliminated from this request. Mr. Beer noted he can come back to the Board, if he decides to have horses and cows. Mr. Atha asked if the petitioner will construct a barn or use an existing one. Mr. Beer explained he plans to utilize an existing 800 sq. ft. building for the goats and chickens. Mr. Miller suggested approval of twelve chickens, goats, and sheep, but he has some concerns allowing horses and cows. Mr. Atha asked if the petitioner could submit a revised site plan showing the pasture area for approval by staff. Mr. Hesser pointed out the petitioner has appeared unwilling to commit to the larger pasture, and he is against approving horses, cows, and donkeys. He continued saying twelve chickens, no roosters is routinely approved by the Board. He noted ten to twelve goats is a large amount, but this is a large parcel. He mentioned he has no problem approving chickens, goats, and sheep provided a site plan is submitted showing their containment for staff approval. Mr. Atha questioned their plans for waste disposal. Mr. Beer responded he owns a spreader that hooks to the back of his tractor. Mr. Hesser pointed out this is a large parcel, and spreading the waste does not concern him. Mr. Atha stressed waste should be kept a distance away from the water, and he added the agricultural use will be better than the golf course. Mr. Miller noted the Board has approved this number of animals on property 1/10 the size of this parcel. Mr. Atha added approval is needed due to the residential zone, and this request would not be before the Board, if the property was zoned agricultural.

The public hearing was closed at this time.

Mr. Miller mentioned the trails and 4-wheeler use, and he stated both are allowed by right and do not required Board approval. Mr. Hesser added 4-wheeler use is allowed on the property until it becomes a track, but a track is not part of this request. Mr. Hesser suggested approval for twelve chickens, twelve goats, and two sheep contingent on submittal of a site plan showing containment of the animals. Mr. Miller added no roosters should be allowed. Mr. Atha clarified the Board does not need to approve a large garden or tree harvesting on the property.

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 a Special Use for an agricultural use for the keeping of animals and farm equipment 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 petitioner must provide a revised site plan showing the fenced containment of the animals for approval by Staff.

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. Limited to a maximum of twelve (12) adult goats, four (4) adult sheep, and twelve (12) chickens at any one time, no roosters.

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

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

Mr. Atha stressed this is not a large scale farm operation; it is simply a hobby farm with a small amount of goats, sheep, and chickens. He continued saying the request was not for a 20,000-head hog barn. He added this operation will produce a small amount of waste on a large parcel, and it will not cause ground-water contamination. Mr. Campanello stressed more chemicals were used on the property the 65 years it operated as a golf course than this operation will produce.

11. The application of **Ranulfo Mejia** for a Special Use for a ground-mounted solar array on property located on the East side of CR 25, 1,800 ft. South of CR 46, common address of 68810 CR 25 in Jackson Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0725-2019*.

There were seven neighboring property owners notified of this request.

The petitioner was not present; hearing continued to the end of the time slot.

See item #19 on page 21.

12. The application of **Richard J. Miller & Waneda L. Miller, Husband & Wife** for a Special Use for a home workshop/business for retail sales on property located on the North side of CR 38, 590 ft. West of East County Line Rd., common address of 10097 CR 38 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-0768-2019*.

There were eight neighboring property owners notified of this request.

Richard Miller, 10097 CR 38, was present for this request. Mr. Richard Miller stated they would like permission to operate a retail sales business for liquidated, surplus, general merchandise. Mr. Campanello clarified the petitioner plans to purchase liquidated items and sell them on the property. He asked if semis will make deliveries to the property, and Mr. Richard Miller responded semis will deliver to the property. Mr. Campanello stressed backing out of semis onto CR 38 is prohibited, and a semi turn-around needs to be utilized. Mr. Lyon noted the drive is pretty long for a semi to back down, and Mr. Richard Miller pointed out a semi has plenty of room to turn around on the property. Mr. Campanello then questioned customer parking. Mr. Richard Miller explained customers will park along the driveway, and he believes there is room for eight to ten parking spots. Mr. Hesser noted the site plan shows thirteen to fourteen parking spots. Mr. Campanello asked the number of customers he anticipates a day. Mr. Richard Miller stated he hopes a lot, but he anticipates twenty to twenty-five. Mr. Campanello then clarified there will be two full-time and two part-time employees, but only two will not occupy the residence. Mr. Hesser mentioned a home workshop/business is generally restricted to a 4 sq. ft. sign, and the application requests a 9 sq. ft. sign. He then questioned the need for a larger sign. Mr. Richard Miller

responded a larger sign provides for more visibility. Mr. Hesser asked if the sign is double-sided or faces the road, and Mr. Richard Miller responded it will be double-sided. Mr. Hesser clarified the proposed sign is a total of 18 sq. ft., because it is 3'x3' double-sided. He added the standard is 4 sq. ft., which he interprets as 4 sq. ft. per side. He noted the Board allows a deviation from the size restriction, but it needs to be specified. He continued saying unless otherwise noted it is assumed that a home workshop/business is approved for a 4 sq. ft. sign.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha asked the petitioner if he spoke to any of the neighboring property owners. Mr. Richard Miller responded yes, and most are excited for the store. Mr. Hesser noted this property is in a rural area, and he is not opposed to approving a larger sign. Mr. Roger Miller mentioned the Board typically requires signs meet the home workshop/business restriction when located in a residential area, but the subject property is in a more rural location. Mr. Campanello questioned the sign's 6 ft. setback from the neighboring property, but he is unsure of the required setback. Mr. Auvil explained the signs must be outside of the right-of-way. Mr. Hesser asked if staff has an issue approving a larger sign, and Mr. Auvil responded no. Mr. Roger Miller pointed out the setback in question is from a property line, and Mr. Auvil stressed staff will ensure the site plan shows the sign outside of the right-of-way.

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 a home workshop/business for retail sales 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 10/14/19) and as represented in the Special Use application.
2. Limited to one (1) 3'x3' double-sided sign.

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 *The Rose Home, Inc.* for an Amendment to an existing Special Use for a social service establishment to allow for a maximum of 15 residents (women and/or children) and 3 staff members on site at any given time, to allow for the construction of a second story addition above the existing attached garage for added residents' living area, and to allow for an existing sign on property located on the Northeast side of CR 29, 700 ft. Northwest of South County Line Rd., common address of 72876 CR 29 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-0775-2019*.

There were 11 neighboring property owners notified of this request.

Ray Balogh, 1651 E. Market St. Apt. 12 B, Nappanee, was present for this request as the Secretary of the Board for Rose Home. Mr. Balogh submitted a packet of information to the Board *[Attached to File as Staff Exhibit #1]*. Cara Burnham, 99 EMS D 22 Ln., Syracuse, Executive Director of the Rose Garden Community formerly known as Rose Home North, was also present for this request. Mr. Balogh explained they acquired a second property to use as a graduate home, but the subject property, the Rose Home North, is a residential recovery home for women shackled by substance abuse. He continued saying they have found that a woman's recovery is often hampered, if her children are unable to stay with her at least overnight. He noted their proposal is to construct a second story addition to the existing garage, and the foundation's footprint will not be altered. He stated the submitted packet contains some building plans for the proposed addition. Mr. Hesser questioned if a second story will be added onto just the garage or the entire facility. Mr. Balogh responded the second story will only be added to the garage, and he again stressed the footprint will not change. He mentioned the packet also includes a few letters from existing residents that highlight the importance of their children staying with them or visiting regularly. He stressed the presence of their children aids in their recovery by providing hope and motivation. He stated a current resident of the Rose Home is also present to speak in favor of this request. He pointed out the last names were redacted from the letters for confidentiality purposes. Mr. Hesser asked the purpose of the second story. Mr. Balogh responded it will be a residence for the women with children. He explained the main facility is for single women without children, and it will remain that way. He continued saying their request is for an addition to house a few women with children increase the maximum capacity from 10 to 15, and increase staff members present from 1 to 3. Mr. Hesser clarified the submitted building plans only cover the garage addition that includes three additional bedrooms. Mrs. Burnham pointed out the second story will contain three bedrooms and the main story one. Mr. Balogh explained the main floor bedroom will be utilized by the live-in staff member. Mr. Hesser asked the current number of staff members, and Mr. Balogh responded one. Mrs. Burnham added shift staff work during the day, and she typically works during the day with two shift staff. She continued saying volunteers cover the evenings, and a resident who is close to graduating serves to keep the facility secure at night. Mr. Hesser noted original approval did not include a sign, but this request shows a 3'x4' sign. Mr. Balogh responded a wooden sign exists on the property, and it was placed there before he was involved. He added he is unsure how the sign was placed without permission. He stated the first page of the submitted packet shows a representation of the proposed sign. He explained the existing sign is 3'x4', but its proposed replacement is 3'x3'. He pointed out the new sign will stand approximately 5' tall. He noted the existing sign is wood and difficult to see, but the proposed sign is double-sided and aluminum. Mr. Hesser clarified the proposed sign is not illuminated, and it will only be 3'x3' double-sided. Mr. Balogh noted one sign pictured in the packet is for the recovery home in Elkhart County, and the other one is for used for the bed and breakfast they purchased to use as a recovery home in Syracuse, Kosciusko County. Mr. Campanello clarified the proposed sign is 3'x3'. Mr. Balogh stressed the new sign will be easier to see and longer lasting, since it is made out of aluminum rather than wood.

Danielle (last name redacted for confidentiality reasons), a resident of the graduate house, 11007 N. SR 13, Syracuse, was present in favor of this request. Danielle stated she was given her son on Level 3, making her one of the first women to receive their child during recovery at the Rose Home. She stressed having her son around gave her the inspiration and extra push to continue

with her recovery. She continued saying she has been able to help her son with his needs, and they have grown together. She explained she took parenting classes through the Rose Home, and the staff, Cara, and other girls helped her. She stated it was difficult having her son back at first, but it inspired her to continue. She added her son is doing great and receiving the therapy he needs, which would not be possible without help from the Rose Home. She went on to say they also provided access to programs through the school. She stressed she would not be where she is today without the Rose Home and her son. She noted it is very important for recovering women to have their children and grow/recover with them. She stated their children struggle when they relapse, and they need their mothers to help them through. She continued saying this program provides them the skills needed to get through recovery, and she plans to stay involved after she graduates. She request the Board approve this request.

Cara Burnham, came back on in favor of the request and stated she works every day. She stressed she is responsible for the women's intake, graduation, and everything in between. She continued saying she started in September of 2018, and one of the first things she did was pull data to see the reasons women left. She added over the period of one year she saw three women leave for childcare reasons. She explained the Department of Child Services when involved guarantees the women therapeutic, supervised, and unsupervised visits, but a formal guardianship is often put in place. She went on to say often times the children are placed with relatives, and the relatives who may be part of the woman's dysfunctional family. She stated they have witnessed children come to the facility who have not received proper care, and all three women who left the program were incarcerated following that. She stressed the proposed program provides a huge opportunity to impact the community by reducing the rate of incarceration and ensuring the children receive proper care. She added it will allow them to impact a second generation. Mr. Hesser asked if the children will stay in the same bedroom as their mother. Mrs. Burnham responded DCS reviewed their plans and approved the mother and child staying together in the same room. Mr. Hesser clarified their proposal will allow them to serve three additional women and their children. Mrs. Burnham added this addition will be reserved specifically for women who have a reunification plan with their children. She explained women will be allowed to move directly into this area and receive all of the support, services, and staff needed to ensure their children are safe and the mothers are supported while learning how to parent again. She then clarified the existing garage will be demolished, because it cannot structurally support the extra story. She went on to say the footprint will remain the same, but she wanted the Board to be aware of what work will be completed.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Lyon asked if adding a sign causes any problems, and Mr. Auvil pointed out the history noted no sign was approved with the previous request. Mr. Campanello stated a 3'x3' sign should be added to this approval. Mr. Hesser asked if the proposed sign was noted in the questionnaire. Attorney Kolbus stated the sign should be included in approval. Mr. Balogh responded the request for a sign was included in the questionnaire without the dimensions, but they would like approval for a 3'x3' double-sided sign. Mr. Hesser stated a revised site plan should be submitted showing the sign location. Mr. Balogh responded they would like to place the sign as close to the road as allowed. Mr. Hesser explained he needs to speak to staff about the sign location.

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 social service establishment to allow for a maximum of 15 residents (women and/or children) and 3 staff members on site at any given time, to allow for the construction of a second story addition above the existing attached garage for added residents' living area, and to allow for an existing sign be approved with the following condition imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/14/19) and as represented in the Special Use Amendment application.
2. Limited to one (1) 3'x3' double-sided sign.

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

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

Mr. Balogh stated the organization is ready to proceed with the second story, and they would like to start it as soon as possible. The Board directed him to speak with staff about the timeline.

14. The application of *AMMF Trustee Corporation Trustee for Amish Mutual Mortgage Fund (Land Contract Holder) & Larry A. Burkholder & Marlene J. Burkholder, Husband & Wife (Land Contract Purchasers)* for an Amendment to an existing Special Use for a home workshop/business for a dry goods/fabric store to allow for the construction of an addition to an existing building on property located on the North side of CR 56, 2,750 ft. West of CR 101, common address of 29999 CR 56 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-0744-2019*.

There were 14 neighboring property owners notified of this request.

Larry Burkholder, 29999 CR 56, Nappanee, was present for this request and stated he would like to add warehouse space to the back of his existing building. He then pointed out the retail section of the existing building and the proposed location for the addition on the aerial. He stressed their storage space is full, and they want to move all of their existing storage into one building. He continued saying the addition will not be used for retail space. Mr. Campanello clarified no employees will be added. Mr. Burkholder explained this addition will allow for storage space closer to the retail area, because they currently have to transport goods from different buildings. Mr. Hesser noted a home workshop/business is limited to a 4 sq. ft. sign, but the existing sign is 12 sq. ft. He asked if the sign was included with initial approval, and Mr. Burkholder responded it was approved when they added on in 2010. Mr. Hesser also pointed out a home workshop/business is limited to two outside employees, and the questionnaire states four are not occupants of the site. Mr. Burkholder explained they have four part-time and two full-time employees. Mr. Hesser clarified more than two employees do not reside on the property, and he asked if the employees were also included in previous approval. Mr. Burkholder responded the

employees were previously approved, and he is not increasing them. Mr. Hesser asked if staff has a problem with the home workshop/business standard deviations previously approved, and Mr. Auvil responded no.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his only concern was the deviations from the home workshop/business standards, and they appear to have been addressed with previous approval.

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 dry goods/fabric store to allow for the construction of an addition to an existing building be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/7/19) 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.

15. Mr. Hesser asked if anyone was present for the Ranulfo Mejia request, and again no one was present. Hearing moved to the end of the meeting.

See item #19 on page 21.

16. The application of *LEJN, LLC* for a Use Variance to allow for the sale of construction equipment and pre-built storage buildings and for a Special Use for warehousing and storage of RVs, construction equipment, and pre-built storage buildings on property located on the Southwest corner of SR 13 (Main St.) & CR 12, common address of 55065 SR 13 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0762-2019*.

There were six neighboring property owners notified of this request.

Loren Beachy, 54911 SR 13, part owner of LEJN, LLC, was present for this request. Mr. Beachy clarified the parcel surrounding the property highlighted on the aerial should also be part of the request, and he believes it was included on the site plan. He continued saying they purchased both parcels at the same time. Mr. Hesser asked if adding a parcel to the request affects the legal notice requirements, and he mentioned the site plan submitted appears to depict the piece highlighted on the aerial. Mr. Beachy stressed he intended for the site plan to show both parcels, and he believes both were included in the application. Mr. Atha noted the residence is pictured in the middle of the parcel on the site plan, and it is on the edge of the parcel on the aerial. Mr. Miller stated the site plan appears to include both parcels, but Mr. Hesser added it does not appear to be proportionate. Mr. Auvil stated all parcel numbers listed at the top of the staff report were included

in any notification, and he is unsure why the aerial does not match. Mr. Hesser clarified both parcels were included in the legal notice. Mr. Auvil then stated only one parcel number was listed on the Staff Report for this petition, but Mrs. Britton noted both parcels were listed on the petition. Mr. Beachy noted the property is two separate tax parcels, and he pointed both out on the aerial. Mr. Hesser asked if he spoke to the neighbor to the south of the subject property. Mr. Beachy responded no, and he explained it is a duplex that is used as a rental. He pointed out another property owned by the same landlord, and Mr. Hesser clarified the neighboring property owner should have received legal notice. Attorney Kolbus asked if both parcels share a single address, and Mr. Beachy responded yes. He continued saying the property only has one residence, and Attorney Kolbus clarified the property address is 55065 SR 13. Mr. Campanello asked if the petitioner came before the Board recently, and Mr. Beachy pointed out a parcel north of the subject property that is also owned by the LEJN LLC. He went on to say the Plat/Plan Commission and Commissioners approved a Rezoning of the northern parcel to M-1, and the subject property was purchased after that. He explained they would eventually like to rezone this parcel to M-1, but a residence is located on the property. He stressed they do not need the house for business purposes, but they have good tenants. He mentioned they planned to rezone the property right away, but staff suggested they apply for a Use Variance and Special Use to allow their tenants to remain in the residence. He went on to say they will likely request a Rezoning down the road. Mr. Hesser noted the submitted site plan excludes the residence, and Mr. Beachy stated the residence will remain the same. Mr. Hesser also pointed out the submitted application is only for a Special Use not a Use Variance, and he asked if staff has any concerns. Mr. Powers responded the request includes a Use Variance and Special Use, and Mr. Hesser explained the Board only received the questionnaire for one of the requests in their packets. Mr. Campanello asked if the site plan is sufficient due to the nature of this request. Mr. Powers responded staff reviewed the site plan and did not have a problem with it. He continued saying this is a peculiar situation, because a rental property is mixed in with a commercial use. Mr. Miller stated he believes a detailed site plan would be more applicable for a Rezoning. Mr. Hesser noted the aerial has a substantial tree buffer, which the site plan shows greatly reduced. Mr. Atha clarified it appears most of the existing trees will be removed from the property. Mr. Beachy responded some trees will be removed, but the remaining shown on the site plan will remain as a buffer. Mrs. Britton noted the legal advertisements for this request were correct, but not all property owners within 300 ft. of the second parcel were notified. Attorney Kolbus stated this request should be tabled, because proper notice was not given. He explained the legal advertisement was correct, but only the neighbors within 300 ft. of the smaller parcel were notified. Mr. Hesser suggested the Board continue proceeding with the hearing in case anyone else is present for this request.

Clara Morse-Fry, 54895 SR 13, came on opposed to this request and pointed out her residence north of the petitioners other property. She stated the Plat/Plan Commission approved a Rezoning of the petitioner's northern property with a four to three vote. She continued saying the argument for approval was its proximity to the Meijer Processing Plant, but the plant is farther from the road. She stressed since rezoning, they removed all of the trees from the property, and the area no longer appears agricultural. She added the petitioners planned to install a retention pond on their property that will affect their farming operation on the 50 acres they own behind it. Mr. Miller questioned if Mrs. Morse-Fry is speaking on the subject property or the one to the north. Mrs. Morse-Fry responded both, because she believes the petitioners will treat the subject property

the same as their other parcel. She added several trees have already been removed from the subject property. Mr. Hesser questioned how this request will affect her property, and she responded it will impact the country setting. She noted the petitioner would like to permanently rezone the property at a later time, but she believes approval of this request will allow commercial uses to take over the surrounding area. She again stressed most of the trees have been removed from the subject property, and a truck was already for sale there. Mrs. Morse-Fry stressed SR 13 and CR 12 are heavily travelled, two-lane roads. She added Middlebury Little League is located approximately a mile down CR 12 from the intersection, and about one hundred families travel there from April through the summer. She stated she is concerned about safety, because some children bike to the ball fields. She again stressed approval of this request will change the agricultural setting. Mr. Hesser explained this request will be continued due to insufficient notice, but her testimony is now part of the record to be considered at the next hearing. Mr. Atha suggested she submit her notes to the recording secretary, and she then submitted her notes for the record [Attached to file as Remonstrator Exhibit #1].

Mr. Campanello stated he believes the property should be Rezoned, because it is a small step to a larger project. He agreed to table this request, but he is inclined to require the property be Rezoned. Mr. Hesser noted the site plan submitted is disproportionate, and he suggested the petitioner revise it to reflect both parcels. Mrs. Britton pointed out the site plan does not appear to be to scale, but it reflects both parcels. She added the property owner to the south of the depicted property is listed as Robert & Nancy Hawkins. Mr. Hesser stressed a proper site plan is needed for the next hearing.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Denny Lyon that this request for a Use Variance to allow for the sale of construction equipment and pre-built storage buildings and for a Special Use for warehousing and storage of RVs, construction equipment, and pre-built storage buildings be tabled until the until the December 19, 2019, Advisory Board of Zoning appeals meeting due to insufficient notice.

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

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

Mr. Miller suggested staff explain the situation to the petitioner. Mr. Beachy asked if the petition was tabled, because proper notice was not given. Mr. Hesser responded yes, and he added it was also noted that the site plan does not appear to reflect the parcels described by the petitioner. He suggest the petitioner check to ensure the site plan is accurate. Mr. Lyon mentioned Mr. Campanello would like the petitioner to revisit the possibility of rezoning the parcel. Mr. Beachy responded he followed staff's recommendation to apply for the Use Variance/Special Use.

17. The application of *Grace Point Apostolic Church, Inc.* for an Amendment to an existing Special Use for a place of worship to allow for an addition on property located on the Southeast corner of Ash Rd. & Charla Ln., 1,825 ft. South of CR 8, common address of 54662 Ash Rd. in Cleveland Township, zoned A-1, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0692-2019*.

There were 17 neighboring property owners notified of this request.

Jeremy Lower, 16511 Jackson Rd., Mishawaka, came on for this request as a pastor at Grace Point Apostolic Church. He stated the church ran out of space, and they would like to add onto the back of the building and possibly some office space to the front. He continued saying the church owns 3.74 acres. Mr. Atha asked if Soil and Water approved the addition. Mr. Lower explained a new septic system will be required for the addition. Mr. Aha clarified Soil and Water approved the addition and parking area. Mr. Hesser pointed out the church plans to add onto the east and west, and the addition will increase the building by about 4x its current size. Mr. Lower explained only part of the addition will be constructed at this time, and he pointed out the section they currently plan to add.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated the request is for a large addition, but the property is also pretty big.

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 an Amendment to an existing Special Use for a place of worship to allow for an addition 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 9/16/19) 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.

18. The application of *Carl Gaines* for a 16 ft. lot-width Developmental Variance (Ordinance requires 80 ft.) to allow for an existing residence, for a 7,373 sq. ft. lot-area Developmental Variance (Ordinance requires 15,000 sq. ft.) to allow for an existing residence, for a 73 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing residence 47 ft. from the centerline of the right-of-way, for a 10 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing residence 0 ft. from the west side property line, and for a 9 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an attached garage addition 1 ft. from the east side property line located on the Northwest side of Jackson Blvd., 360 ft. East of Middleton Run Rd., common address of 3900 E. Jackson Blvd. in Concord Township, zoned R-1, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0674-2019*.

There were five neighboring property owners notified of this request.

Carl Gaines, 3900 E. Jackson Blvd., came on for this request. He asked permission to construct an addition to the garage within 1 ft. of the east side property line. He continued saying he would like to store two vehicles and a motor cycle inside it. He noted he is completely renovating the residence. He added some confusion was caused last month, because the request was transposed. He continued saying the residence comes up to the west side property line, and

the request has been corrected. Mr. Hesser asked who heard the request originally, and Attorney Kolbus responded the Hearing Officer. Mr. Hesser asked if he spoke to his neighbors about the request. Mr. Gaines responded one neighbor was confused at the last hearing, but they have no issues with it now. Mr. Lyon questioned the previous owner of the property, and Mr. Gaines responded he passed away in January. Mr. Miller asked if a fence will be installed between his property and the neighbors'. Mr. Gains responded no, because the neighbors have a wildflower garden in that area. Mr. Hesser noted the addition is towards the river, and it will not be any closer to the right-of-way.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha questioned if the residence is simply expanding slightly closer to the property lines. Mr. Hesser pointed out a garage will be added to the residence, and Mr. Lyon mentioned the existing house is being remodeled.

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 16 ft. lot-width Developmental Variance (Ordinance requires 80 ft.) to allow for an existing residence, for a 7,373 sq. ft. lot-area Developmental Variance (Ordinance requires 15,000 sq. ft.) to allow for an existing residence, for a 73 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing residence 47 ft. from the centerline of the right-of-way, for a 10 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing residence 0 ft. from the west side property line, and for a 9 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an attached garage addition 1 ft. from the east side property line be approved with the following conditions imposed:

1. Variances from the developmental standards of the Zoning Ordinance are 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 requests are approved in accordance with the site plan submitted (dated 9/12/19) 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.

19. The application of *Ranulfo Mejia* for a Special Use for a ground-mounted solar array on property located on the East side of CR 25, 1,800 ft. South of CR 46, common address of 68810 CR 25 in Jackson Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0725-2019.

There were seven neighboring property owners notified of this request.

Again, no petitioner was present.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Denny Lyon that this request for a Special Use for a ground-mounted solar array be tabled until the December 19, 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.

*****It should be noted that Mr. Hesser recused himself and was replaced by Mr. Norman*****

20. The application of ***Tall Oaks Mobile Home Park, LLC*** for a 48 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for new & existing mobile homes 27 ft. from the centerline of the right-of-way of East County Line Rd., for a 50 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for existing mobile homes 25 ft. from the centerline of the right-of-way of CR 4, for a 30 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 0 ft. from the west side property line, and for a 30 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 0 ft. from the rear property line located on the Northwest corner of CR 4 & East County Line Rd., common address of 10039 CR 4 in York Township, zoned R-2, came on to be heard.

Mr. Powers presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0693-2019*.

There were six neighboring property owners notified of this request.

Mr. Powers noted the date on the Staff Report for the site plan should be changed to match the revised one submitted 11/7/19.

Marsha Stiles, 10039 CR 4, Middlebury, the property manager for Tall Oaks Mobile Home Park was present for this request. Mr. Miller asked what the petitioners are requesting. Mrs. Stiles explained this is a very old mobile home park, and they would like to replace the old homes, some that date back to the 60s. She continued saying they would like to update the older homes to make the park safer for the tenants. She stressed they plan to replace the mobile homes on existing lots, and they will not be adding any additional homes. She continued saying the new mobile homes will sit on the footprint of an existing home. Mr. Campanello asked if the mobile homes will be new or refabricated. Mrs. Stiles responded the homes will be used and older. Mr. Campanello also asked if the homes will be able to pass inspections, and he questioned who inspects them. Mrs. Stiles responded the county inspects them. Mr. Campanello questioned if a HUD inspection will be completed on the rehabbed homes. Mrs. Kratzer responded the building inspectors go out to the site, and Mr. Williams, the Building Commissioner, clarified the building inspectors only inspect the installation. Mr. Miller reiterated the footprint and size of the mobile homes will not change, and he clarified they simply plan to replace what is already on the property with newer models. Mrs. Stiles responded yes, and she explained a lot of the existing mobile homes are so old that they sink, and one is pulling away from the unit. She stressed some homes cannot be properly repaired, causing safety issues from water running into the electric etc. Mr. Lyon asked if renters are currently in the mobile homes, and Mrs. Stiles responded yes. Mr. Norman questioned if this proposal includes replacing the mentioned mobile home where the water is running into the electrical, and he clarified the damaged home will be removed and replaced by something newer. Mrs. Stiles responded yes, and it will be replaced with a safer home.

Shirley Noble, 11790 W 750 N, Middlebury, was present opposed to this request as the president of the Stone Lake Conservation Club. Mrs. Noble stated she believes this request is being misrepresented, because anyone could see right through one of the mobile homes that was brought onto the property. She stressed the mobile home was wrecked. Mr. Miller questioned what is being misrepresented. Mrs. Noble responded the petitioner stated new homes were brought in, and Mr. Miller stressed the petitioner stated the homes were refurbished. Mrs. Noble stressed the homes are newer, but the two that have been brought in were a wreck. She again stated the homes could be seen through, and they patched them with pieces of odds and ends metals etc. She also questioned why the Board would approve a Developmental Variance for mobile homes closer to the road. She stated little kids play in that area all the time, and the road slants towards the mobile homes. Mr. Miller clarified with staff that the request is to replace exactly what is currently on the property, and no setbacks will be changed. Mr. Powers responded that is correct, and he stated the only misrepresentation from the aerial is that the longer mobile home was relocated farther to the south. Mrs. Noble stressed the mentioned mobile home is longer than the one it replaced, and it sits closer to the road. Mr. Powers pointed out the location of that mobile home, and he explained it was temporarily placed in a different location while the foundation was fixed. Mrs. Noble questioned why the mobile homes need to be closer to the road, when they should not be any longer than the existing. She again stressed one of the new homes is longer and closer to the road than the one it replaced. She continued saying the road is on a slant, and she suggested the Board come out to the property during the winter when children are outside playing. She added all of the traffic from CR 2 comes down to CR 4, and the curve is already dangerous enough. She went on to say the Board is now looking at approving homes closer to the road, and she believes they need to look to see what is really on the property. She stated they watched the park go in, and they see what is going on now. She stressed it is not better for the children who live there, and she is very concerned about the kids safety due to the slope of the road. She added there has already been a problem with mobile homes too close to the road, and now the new one is closer than the old one. She added traffic on the road is heavier than before. She pleaded with the Board to look and see what is going on at the property. She continued saying the neighbors have called the Planning and Development Department along with Indianapolis, and there is a lot of opposition. She mentioned everyone says they are not aware of the situation, and the neighbors who have lived there for 30 years have seen what is going on around the area. She request the Board look at this request again and make the right decision for the children.

Sarah Brandenberger, 617 E. Michigan St., LaGrange, came on against this request and stated they own the three rental properties north of the subject property, which she pointed out on the aerial. She stated they purchased the duplex on the corner in March of this year. She explained their concern with the request is the 0 ft. setback Developmental Variance between their parcels, the narrow alley their tenants use as access to the property, and the mobile home park. She continued saying their current tenants expressed some safety concerns with the possibility of units being placed 0 ft. from the alley. She noted it was mentioned at the last hearing that the existing mobile homes were 25 ft. from the rear property line, and she is confused as to the need for a 0 ft. setback Developmental Variance rather than the 25 ft. that is needed to continue with the existing footprint. Mr. Atha reiterated the current setback of the mobile homes is 25 ft. from the rear property line, but the request is for a 0 ft. setback. Mr. Miller pointed out staff informed the Board that no setbacks would change. Mr. Powers clarified the original site plan received did not have

all of the setbacks needed, and staff was not 100% certain of the mobile homes' locations. He went on to say he went through the site plan with Mrs. Stiles, and they corrected it to reflect the current locations of the mobile homes. He added one of the conditions/commitments, if the Board chooses to approve it as it stands, requires new mobile homes match the site plan. He stressed they will be unable to change any positions of the mobile homes without applying for an amendment, and according to the site plan the mobile home located closest to Mrs. Brandenberger's property is approximately 14 ft. from the rear property line. He noted a 0 ft. setback Developmental Variance is not needed, but it was originally believed that one would be required. He explained regardless of the Developmental Variance they would be unable to move the mobile homes closer to the property line, since it is required to match the site plan. Mrs. Brandenberger also asked if the site plan reflects the new foundation that was added on the property this year. She explained a new foundation was poured and a new unit added while they were working on their duplex this summer, and she questioned if the revised site plan reflects that. Mr. Powers responded yes, and Mr. Atha noted that unit is 14 ft. from the rear property line. Mrs. Brandenberger pointed out the new unit was brought onto the property between the Hearing Officer Meeting and this one, and they were confused as to how that was allowed to happen. She went on to say that made them nervous as neighboring property owners, because they believed the hearing was still needed. She expressed concern that a mobile home was brought in and the site plan changed during the process. She stressed they have a concern about the 0 ft. setback Developmental Variance, because not everything has been done in the proper order already. Mr. Miller noted the mobile home that was moved in is marked as lot 31 on the site plan, and the setback shown is 14 ft. from the property line. Mrs. Brandenberger agreed lot 31 is the one she was referencing, and Mr. Atha noted the site plan was completed on 11/7/19. He then clarified the site plan is up to date. Mrs. Brandenberger mentioned the neighbors agreed at the last hearing that they would feel better about the request with an accurate site plan. Mr. Atha reiterated the mobile home in question is 14 ft. from the north property line. Mr. Norman questioned what property Mrs. Brandenberger owns, and she pointed out their three parcels on the aerial.

William Wengerd, 10048 CR 4, was present in remonstrance and pointed out his property directly across the street from the mobile home park entrance. Mr. Wengerd stressed he has not seen anything that appears to be an upgrade to the park, and the fence that was recently installed appears to belong at a junk yard. He continued saying it is a cheap, wooden, privacy fence. He added their snow has been pushed into his driveway on multiple occasions and his yard has been torn up. He stated when snow was pushed into his driveway he called the park manager, and he never received a phone call back. He stressed at that time he had a handicap child who needed to go to school, and the bus had to turn around. He noted the schools were closed for a few days, but his snow was never removed nor was his phone call returned. He stated he does not believe they care about the neighbors. He mentioned oil has dripped across the road, and he believes tenants of the park have changed their oil and thrown the old filters into his marsh. He went on to say he cannot prove it because of the mud. He added a huge gas leak happened in front of his house, and he does not believe the park is capable of hiring competent contractors. Mrs. Wengerd pointed out two nights ago he found a large pile of brush from the park's trees on his property when he came home from work. He then submitted pictures of the brush pile for the record *[Attached to file as Remonstrator Exhibit #1]*. Mr. Miller stated he does not believe the Board can deal with the brush issue. Mr. Wengerd responded he is aware it is not under the Board's jurisdiction, but he has concerns

about the park's disregard for the neighbors' property values. He noted he would like the park removed. Mr. Atha asked if the park existed across the road when the remonstrator purchased his property. Mr. Wengerd responded it was existing, and he does not have too many issues. However, he mentioned some summers more kids run around on the property, and they have seen children almost be hit in front of their house. He noted he purchased his property in 2005, but they moved away and rented the property out for a few years. Mr. Atha asked if Mr. Wengerd feels he paid less for the property due to its location across the street from a mobile home park, and he responded yes. He continued saying his property is three acres with a nice pole barn and house, and he only paid \$125,000 for it. He pointed out it was quite a bit lower than typical property values.

Fran Samuelson, 1170 W 750 N, a resident of Stone Lake, came on opposed to this request. Mrs. Samuelson noted the trailers currently on the property are much older, making them much smaller and shorter. She stressed the trailers replacing them are much longer than what was there. She stated she would love the trailer park to be fixed up. However, she continued every time something is done to fix it up, it does not last and looks worse. She added the contractors who complete the work probably do not know electric, insulation, etc., and everything is just patched. She stated they look good for a while. Mrs. Samuelson explained the first newer trailer that was brought in was a piece of junk. She continued saying she is unsure where they got the trailer, but she hopes it was free. She noted they patched it, and it looks better. However, she added she hopes someone checks it to make sure the electric and plumbing are correct, because it will soon fall apart again. She then went on to address the second trailer that was brought into the park looked better. She stated they took a lot of stuff out of the trailer, and left a large pile before fixing it up. She stressed she hopes someone inspects the trailers, because families live in them. She mentioned a family is currently living in the trailer mentioned by the petitioner with the side falling off. She asked how a family can be allowed to live in it. Mr. Lyon asked if the park has been owned by the same party over the years, and Mrs. Samuelson responded she is unsure.

Mrs. Brandenberger came back on and stated she had the realtor/listing agent of their property write her letters explaining the impact on her property value, if units were moved closer to the property line. However, she stated she only has the letters in email form. She noted it has been said that they will be required to adhere to the standards, but they have not seen that since they purchased the property. She again mentioned the trailers being moved in/out without proper permitting. She reiterated the letter states that a 0 ft. setback Developmental Variance could impact the resale of their property after it has been remodeled.

Jane Milewski, 51741 East County Line Rd., Middlebury, was present against this request and stated she lives approximately a mile north of the subject property. She questioned if the mobile homes are to be replaced the same size, and Attorney Kolbus responded they will be placed on the same foundation. She reiterated the trailers will be placed on the same foundation, but she again questioned if the trailers will be the same size. She explained the first newer trailer to be brought onto the property was completely different than what was existing. She stressed the subject property is becoming an eyesore to the community, lake, and property values.

Mrs. Stiles came back on to respond to the concerns. Mr. Lyon asked if lot 30 is hashed out, because it is being removed. Mrs. Stiles responded that mobile home was moved. Mr. Campanello asked staff if the subject property is considered a subdivision, and Mr. Auvil responded it is a mobile home park. Mr. Atha asked if the property is grandfathered in, and Mr.

Auvil agreed it is a legal non-conforming property. Mrs. Stiles stated the Developmental Variances requested she believes are due to the rule changes over the years such as the 75 ft. setback from the centerline of the right-of-way. She stressed the existing homes are well into the setback, and they would like the Developmental Variance to rectify that. Mr. Miller noted the petition requests a 0 ft. setback Developmental Variance, and Mr. Atha mentioned the setbacks should reflect the site plan. Attorney Kolbus pointed out to reflect the site plan the rear property line setback should be 14 ft. not 0 ft. Mrs. Stiles reiterated her belief is that the Developmental Variances are to request permission to install newer mobile homes on existing lots. She stressed peoples' personal opinions of the homes she believes are irrelevant. She added she understands the safety concerns mentioned by the remonstrators, but the new mobile homes are not moving any closer to the road than the existing units. Mr. Campanello explained when a mobile home is constructed HUD inspects it and puts a plate on it. However, he continued once any wall etc. is moved inside the home it is no longer a HUD approved home. Mrs. Stiles responded they have hired contractors to work on the homes. Mr. Campanello questioned why the park owner does not purchase new mobile homes from local builders to make it a nice mobile home park. Mrs. Stiles responded the mobile homes need to be obtainable for the tenants, and she stressed the park caters to lower income families. She added she receives anonymous phone calls from the lake association bashing people from the trailer park, because they are lower income. She mentioned in the summertime they host cook outs and craft time with the kids. She continued saying their community is about helping their neighbors, and she is proud of the progress they have made. She noted when she first started working for the park five years ago, there were satellite dishes/mattresses everywhere and drug deals in broad daylight. She stated she has walked through the property with the Environmental Health Department for inspections, and the inspector could not believe the transitions they have made for the better. She stressed she does not understand why the neighbors are bashing their residents rather than helping them. She continued saying the residents do not have the money, but that does not mean they are not good people. She request permission to place newer homes that the residents can afford, because they cannot afford a \$30,000 home. She reiterated the need for approval to replace the older homes, because they can be dangerous. She stressed they do not need to place homes closer to the road, and she believes that is irrelevant. Mr. Miller request she address the concerns mentioned in regards to snow blowing etc. Mrs. Stiles responded she does remember the neighbor's phone call in regards to snow removal, and a contractor pushed the snow into the road. She added she even had tenants complaining about how that contractor snowplowed. She noted she called the contractor and informed him that he needed to fix it. She stated she is unaware of where the tree debris came from, but it is possible that a contractor placed them there from a tree limb that broke. She continued saying she is unsure where they came from, but she will ask since that is not okay. She added she has always tried to make herself readily available to anyone with genuine concerns, but their concerns are typically just bashing parties. She reiterated the tree limb situation is a genuine concern that she will address.

The public hearing was closed at this time.

Mr. Miller stated he understands and appreciates the neighbor's concerns, but this mobile home park has been in place for a long time. He added he drove around that corner for several years, but he does not believe the Board can address the units themselves. He continued saying the Board is concerned with the new trailers being the same size/footprint as the existing ones.

Attorney Kolbus clarified the request is to maintain the setbacks of the existing units, and any longer units must extend into the park rather than farther into the setbacks. Mr. Atha mentioned there is an opportunity here to require the new units conform to today's standards. Mr. Miller responded that is not the request, and Mr. Atha suggested it could be a possible solution for the use of this property. He continued saying this trailer park could become conforming. Mr. Norman questioned the standards. Mr. Atha explained the standard setback is 75 ft. from the centerline of the right-of-way. He suggested the nonconforming trailers not be replaced in the same location, instead the petitioners should hold off placing a new one until it can meet the setbacks. Mr. Miller reiterated the petitioners are looking for approval to replace the existing units in the same location. Attorney Kolbus clarified denial of the request would result in Mr. Atha's suggestion, because any new mobile homes would be required to meet the current setbacks.

Attorney Kolbus noted the request should be amended to reflect the setbacks on the site plan. He explained the 0 ft. setback to the rear property line should be changed to 14 ft. Mr. Auvil noted the Developmental Variances should read as follows; 14 ft. from the rear, 8 ft. from the west property line, 34 ft. from the east, and 29 ft. from the front.

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

Motion: Action: Approve, **Moved 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 41 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for new & existing mobile homes 34 ft. from the centerline of the right-of-way of East County Line Rd., for a 46 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for existing mobile homes 29 ft. from the centerline of the right-of-way of CR 4, for a 22 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 8 ft. from the west side property line, and for a 16 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 14 ft. from the rear property line be approved. **None seconded.** Motion dies for lack of a second.

Mr. Campanello stated the property is non-conforming, but he does not believe the county can properly manage it. He continued saying the county is unable to inspect the electrical/structural work that has been completed during the remodel, because only HUD is allowed to inspect the inside of a mobile home. He stressed approval of this request would allow possibly problematic mobile homes, due to the way they are remodeled. He added he would not have a problem with new mobile homes. He stated the mobile homes have not been taken care of for a while, several are dilapidated, and non-conforming mobile homes have been brought onto the property. He noted he also has some concerns with the proposed setbacks.

Motion: Action: Deny, **Moved by** Tony Campanello, **Seconded by** Denny Lyon that this request for a 41 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for new & existing mobile homes 34 ft. from the centerline of the right-of-way of East County Line Rd., for a 46 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for existing mobile homes 29 ft. from the centerline of the right-of-way of CR 4, for a 22 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 8 ft. from the west side property line, and for a 16 ft. Developmental Variance (Ordinance requires 30 ft.) to allow for existing mobile homes 14 ft. from the rear property line be denied based on the following Findings and Conclusions of the Board:

1. Approval of the requests will be injurious to public health, safety, morals, or general welfare. This is nonconforming. The newer mobile homes being placed in the park may be problematic due to their remodel work not being inspected at the local level.
2. Approval of the requests will cause substantial adverse effect on neighboring property. The existing mobile homes have not been taken care of for a long time, they are dilapidated; and non-conforming mobile homes are being brought onto the property.
3. Strict application of the terms of the Zoning Ordinance would not result in an unnecessary hardship in the use of the property.

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

Yes: Joe Atha, Tony Campanello, Denny Lyon, Ron Norman.

No: Roger Miller.

21. The staff item for Concord Little League was previously heard as item #8 on page 4.

22. The meeting was adjourned at 11:34 a.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary