

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 20<sup>th</sup> DAY OF AUGUST 2020 AT 8:30 A.M.**  
**MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING**  
**4230 ELKHART ROAD, GOSHEN, INDIANA**

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Vice-Chairperson, Roger Miller. Staff members present were: Jason Auvil, Zoning Administrator; Mae Kratzer, Planner; Doug Powers, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Joe Atha, Tony Campanello, Roger Miller.

**Absent:** Ron Norman, Randy Hesser.

2. A motion was made and seconded (*Atha/Campanello*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 16<sup>th</sup> day of July 2020 be approved as read. The motion was carried with a unanimous roll call vote.

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

4. The application of **Matthew D. Dewind** 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 Claire Ln., 730 ft. west of Spring Valley Dr., south of US 20, common address of 1012 Claire Ln. in Middlebury Township, zoned PUD R-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0517-2020*.

There were 29 neighboring property owners notified of this request.

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

Matthew Dewind, 1012 Claire Ln., Middlebury, was present for this request. He stated they would like approval for up to twenty chickens, no roosters. He explained the chickens are their pets and provide eggs. He noted they currently have seventeen hens on the property but no roosters. He stressed they ensured they had no roosters in order to follow the proper guidelines. Mr. Atha questioned waste disposal. Mr. Dewind responded part of the waste is used on his wife's small garden, and they dispose of the rest.

Josh Owen, 614 Spring River Dr., Middlebury, was present opposed to this request. He clarified no roosters are currently on the property, but they had one prior to the meeting. He went on to say the petitioners' were given the deadline of July 13<sup>th</sup> by Doug Powers to remove the rooster from the property, but it was not removed until July 18<sup>th</sup>. He stressed he could hear the rooster all hours of the day and night. He noted the coop lights are left on all night, and the chickens are noisy. He also mentioned the chickens are smell bad, and they can smell and hear the chickens in their backyard. He stressed the hens could be heard last night and the previous one until 11:30 p.m. He stated they cannot leave their windows open or enjoy their property without

smelling and hearing the chickens. Mr. Miller request he point out his residence on the aerial, and Mr. Owen pointed it out. He added another neighbor who owns a pool, Melisa Garcia, 612 Spring Arbor Ln., sent a letter against the request. He continued saying she was unable to attend the hearing, because she drives school bus. He reiterated his concerns about the noise, smell, and not removing the rooster by the designated time. He noted Penny Lowell, the neighbor behind his property complained to him about the chickens getting into her back yard. He stressed she is also opposed to this request but was unable to attend the hearing. He then questioned if a specific plan needs to be in place for manure disposal. He added chickens do not lay eggs forever, typically only for a few years. He went on to ask who governs the number of chickens allowed, and if they can be replaced. He request the number of chickens allowed be limited to six or less. He stressed their backyard is very unpleasant. Mr. Miller explained the Board determines the number of chickens allowed, if the request is approved. Mr. Owen questioned if they approve the number requested, and Mr. Miller responded the Board can determine a different number. Mr. Atha pointed out the petitioner requested twenty chickens. Mr. Owen stated he spoke to Mr. Powers and Mrs. Kratzer who informed him the Board typically approves twelve chickens. Mr. Miller noted twelve is the standard number approved, but it can vary. Mr. Hesser asked if any restrictive covenants exist in the subdivision. Mr. Owen responded no, but Middlebury does have a noise ordinance.

Mrs. Kratzer submitted the mentioned letter from Melisa Garcia, 612 Spring Arbor Ln., received by staff in remonstrance *[Attached to file as Staff Exhibit #1]*. She explained the letter expresses the same concerns shared by Mr. Owen.

Mr. Dewind came back on and stated he will take any recommendations for disposal of manure. He explained this is his first time raising chickens. He mentioned he appreciates the mentioned concerns. He stressed Mr. Garcia actually helped him when one of their chickens flew over to his property. He went on to say he put an extra board on the fence to prevent the chickens from flying over it until their wings were clipped. He noted they have since clipped their wings. He also pointed out another neighbor who appreciates the chickens and raised some for 4-H when they were younger. He added one of the neighbors across the street gives them advice for raising the chickens, and their daughter even helps care for them. He stressed they want to work with their neighbors. He explained they use a natural mulch in the runs and cleaner to keep the smell down. He went on to say they do not hear any noise at night, because the chickens are kept in a 20 sq. ft. coop. He noted the coop is ventilated, but no doors or windows are left open in order to minimize the noise. He added the chickens are put in the coop between 10 and 11 p.m. and let out after sunrise. Mr. Dewind stated one of their chicks ended up being a rooster, which matched itself to a hen. He stressed they wanted to ensure the pair went to the same home, and Mr. Powers was aware of their timeline. He added they do not intend to have any roosters going forward, because they make a lot of noise. He noted they do not want to upset their neighbors. Mr. Miller request he address the issue mentioned about loose chickens. Mr. Dewind explained they were still learning when they purchased the chickens. He continued saying they constructed a 12'x16' run, but it did not have a roof. He noted they were not aware that one of the chickens had feathers long enough to fly over a 6' fence, and the neighbors helped them bring it back to their property. He stressed they clipped the chickens wings at that time, and they have clipped them ever since to prevent them from flying around. Mr. Miller clarified the chickens are currently enclosed in a fence. Mr. Dewind responded they stay contained in a 12'x16' run that leads to a 20 sq. ft. coop.

Mr. Campanello pointed out the request is for twenty chickens, which he believes is a large number for this size property. He went on to ask if they have a problem limiting the number of chickens to twelve. Mr. Dewind responded no, but he stressed the chickens are their pets. He continued saying they do not want to lose five of them, but they will follow the guidelines imposed.

The public hearing was closed at this time.

Mr. Miller stated he is hesitant to move for approval of this request, because the surrounding neighbors appear to be unhappy with it. He suggested imposing a time limit on the request of a year. Mr. Atha questioned if twelve chickens is too many for this property or if six is more appropriate. Mr. Miller noted this is a smaller area to allow chickens. Mr. Hesser pointed out the Board has allowed chickens in subdivisions. Mr. Atha mentioned Goshen City allows six chickens, which limits the use to a hobby not a small farm. Mr. Miller questioned how many chickens should be approved on this property. Mr. Campanello noted the Board's precedence has been twelve.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for 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 commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/10/2020) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens at any one time and no roosters.
3. Approved for a period of one (1) year; any renewal shall be before the Elkhart County Advisory Board of Zoning Appeals.

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

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

Mr. Miller explained the request was approved for twelve chickens for a period of one year, and Mr. Atha added the Board will reassess the situation at that time. Mr. Dewind asked how long he has to rehome five of his chickens. Mr. Miller responded he will need to speak to staff about the time frame.

5. The application of *Scott Clark & Karrie Clark, Husband & Wife* for a Special Use for resource extraction of gravel, sand, and other raw materials on property located on the south side of CR 36, 2,100 ft. east of CR 11, common address of 24600 CR 36 in Harrison Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0533-2020*.

There were 12 neighboring property owners notified of this request.

Scott Clark, 24600 CR 36, Goshen, was present for this request. He stated he came before the Board last year for the same request, but he forgot to return the Commitment after it had been recorded. He went on to say the Board rescinded his approval. He noted nothing is changing from the last request. Mr. Atha asked if the petitioner will return the Commitment this time, and he responded yes. He again stressed his operation has not changed for the last several years. Mr. Campanello noted Commitment #13 states, "Only one stock pile of concrete and only one stock pile of asphalt permitted for recycling." He questioned if he recycles a large amount of material, and the stock pile size. He asked if he has one huge mound rather than two or three smaller ones. He stated he is unsure why the commitment was written that way. Mrs. Kratzer noted the commitments did not change from previous approval. Mr. Clark responded he understood it was worded that way to allow stockpiling of both concrete and asphalt. He added both are crushed materials that they reuse. He explained he just keeps the materials in one area. Mr. Campanello then asked if he owns a crusher, and Mr. Clark responded no. Mr. Campanello questioned if he hires someone to crush it once a year. Mr. Clark responded he hires someone when enough material piles up that needs crushed. Mr. Hesser asked if the property is fenced in, and Mr. Campanello noted #11 in the questionnaire references the fence. Mr. Hesser then questioned the commitment approving the sign per specifications. Mrs. Kratzer explained the petitioner has one sign at the entrance to the property. Mr. Hesser noted the operation is limited to the designated area, and he questioned where the designated area is shown on the site plan. Mrs. Kratzer explained all property behind the residence is considered the designated area.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello stated this business has been in operation for a long time, and the property is well kept. He also pointed out no one was present in remonstrance. Mr. Hesser noted his only concern was that the Commitment was not returned.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for resource extraction of gravel, sand, and other raw materials be approved with the following condition approved:

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

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 7/13/20) and as represented in the Special Use application.
2. Hours of operation to be 6:00 a.m. to 6:00 p.m., six (6) days per week (Monday thru Saturday). All times to be prevailing local time and provided, further, that nothing shall require said use to remain open during those hours. All gravel loading or equipment producing noise shall be eliminated after 6:00 p.m.
3. Exterior lighting for said premises, if any, shall be restricted to security rural dusk-to-dawn night-guard-type lighting.
4. No external loudspeakers shall be allowed on the premises.

5. Permanent buildings constructed on the site shall be constructed in accordance with plans and specifications approved by the appropriate governmental authority with building permits issued by the Elkhart County Building Department.
6. The mining operation shall be conducted in compliance with all federal laws, rules, and regulations imposed from time to time.
7. All interior access roads to and from the site shall be dust controlled and maintained with crushed stone to prevent mud from being carried onto the highway.
8. Excavation areas shall be graded in such a manner as to prevent the collection of stagnant water.
9. The following setback lines shall be applicable to the gravel mining operation for materials storage and stockpiling, storage of equipment, excavations, and the construction of permanent buildings: Fifty (50) feet from all adjoining properties to the north, east, and south, except for access point.
10. Sign per specification, mounted at existing drive.
11. The operator of the mining business shall be responsible for security of the property and maintaining the existing farm fence, along with the mounds on the east and south property lines.
12. No asphalt or concrete shall be manufactured on the site without prior consent of the Elkhart County Board of Zoning Appeals after public hearing upon notice to interested parties as required by ordinance.
13. Only one (1) stockpile of concrete and one (1) stockpile of asphalt permitted for recycling in the gravel pit.
14. Upon closure of the mining operation, all ponds and/or lakes created by the operation shall be banked and sloped leading to the water's edge, with the slope not greater than three (3) to one (1) and seeded with perennial grasses at the time of grading.
15. Petitioner permitted to crush concrete onsite once a year.
16. The Special Use permit area shall be confined to the site plan submitted.

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

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

6. The application of *Timothy Roy Martin & Cheryl A. Martin, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for the sale of dairy products to allow for a revised site plan on property located on the southeast corner of Ash Rd. & CR 26, common address of 60020 Ash Rd. in Baugo 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-0512-2020*.

There 11 were neighboring property owners notified of this request.

Timothy Martin, 60020 Ash Rd., Osceola, was present for this request. He stated they would like to add onto their building for additional bottle storage of clean and dirty bottles. He noted he also included a future cooler room and store on the site plan for approval. Mr. Hesser asked if the store exclusively sells products produced on the subject property. Mr. Martin responded other local products are also sold such as meat from John's Butcher Shop. Mr. Atha questioned how the neighbors feel about the business. Mr. Martin responded no one he has spoken to had any problems with it.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha stated his only concern was the neighbors, but he believes this is a good location for the operation.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a home workshop/business for the sale of dairy products to allow for a revised site plan be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/8/2020) and as represented in the Special Use Amendment application.

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

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

7. The application of **Robert M. Reverman & Gretchen R. Reverman, Husband & Wife** for a Special Use for a beauty shop on property located on the south side of Corbin Dr., 400 ft. west of CR 11, 1,500 ft. south of State Line Rd., common address of 24818 Corbin Dr. in Osolo Township, zoned R-2, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0530-2020*.

There were 24 neighboring property owners notified of this request.

Gretchen Reverman, 24818 Corbin Dr. was present for this request with her daughter. Mrs. Reverman explained she has cut hair for 30+ years and has a lot of the same clients. She continued saying she has taken a hit due to Covid, because her clients are nervous to enter her salon. She mentioned she would like to operate out of her residence to offer a more comfortable option for her clients. She pointed out she only works four days a week, and clients will be by appointment only. Mr. Atha clarified vehicles will not line up down the road. Mrs. Reverman responded her clients will only come to her property during the daytime, and the driveway will be available for parking.

Donald Schultheis, 24873 Corbin Dr., was present opposed to this request and submitted a petition in remonstrance signed by additional neighbors *[Attached to file as Remonstrator Exhibit #1]*. He stated the Revermans have been good neighbors, but he stressed they live in a residential neighborhood. He noted several of the neighbors signed the petition against this request, but others did not due to a friendship with the petitioners. He mentioned he is not opposed to the petitioner making a living, but he is against rezoning their neighborhood from residential. He went on to say his concern is what could happen later on as a result of approval. Mr. Miller clarified this request is for a beauty shop not a Rezoning. He reiterated approval of the request will not change the property's zone. He stressed it is zoned R-2 and will remain that. Mr. Schultheis responded the neighbors were

unsure about the zoning. He again stated the petitioners have been great neighbors, but they were concerned about a zoning change. Mr. Campanello pointed out the Board can impose a commitment on the Special Use that the request only be approved for a few years to see how it works in the neighborhood. He continued saying if the neighbors have any issues at the end of the time period, they can express them. He added the neighbors can always file a complaint with staff, if issues arise.

Mrs. Reverman came back on and stressed all of her clients are people she has known for a long time. She stressed she will not be taking new clients at this location. She added she respects the neighborhood, and she will not have any signage or anything else intrusive. She mentioned she will not have very many clients. Mr. Miller clarified the hours of operation are Monday through Thursday 10 a.m. to 3 p.m. Mrs. Reverman explained she operates by appointment only, and she will not have clients the entire time. Mr. Hesser stressed all appointments must be scheduled within the listed hours of operation, but she is not required to remain open the entire time. Mr. Campanello asked the petitioner, if she has a problem with imposing a time period to help the neighbors feel comfortable. Mrs. Reverman responded that would be okay. Mr. Atha added her clients may feel comfortable returning to a salon by the time the request comes back for renewal.

Mr. Schultheis came back on to ask an additional question. He asked if a sign will be placed on the property advertising the salon, and Mr. Miller responded no. He went on to explain no signage is listed in the questionnaire.

The public hearing was closed at this time.

Mr. Miller asked how long of a time period should be imposed, and Mr. Campanello suggested three years.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a 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 commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/13/2020) and as represented in the Special Use application.
2. Approved for a period of three (3) years; any renewal shall be before the Elkhart County Advisory Board of Zoning Appeals.

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

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

8. The application of *Elizabeth Brenneman* 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 16, 450 ft. west of CR 1, common address of 30089 CR 16 in Baugo 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-0536-2020*.

There were 11 neighboring property owners notified of this request.

Elizabeth Regules, 30089 CR 16, Elkhart, was present for this request along with her husband Adrien Regules. She explained Brenneman was her last name prior to marrying Mr. Regules, and it is still the name on her warrantee deed. She stated they would like approval to have chickens for meat and eggs. Mr. Hesser asked the need for so many chickens, because fifty is a large number. Mr. Regules responded he got excited about the chickens and joined several Facebook groups. He went on to say foxes, raccoons, and other predators are prevalent in their area, and one predator can kill 20 chickens in a day, if it gains access to the coop. He noted they currently own fifty-six chickens, because two recently died. He explained it takes around three months for chickens to start laying eggs. Mr. Regules then stated one of their roosters was very loud, but none of the neighbors came to them with an issue. He continued saying he purchased a crow collar for the rooster after the complaint was filed, and it helped. He mentioned something then killed that rooster. He noted they have a few roosters remaining that they would like to keep, but they were unsure, if it would be allowed. He stressed they can try a crow collar on the other roosters to see how it works. He explained different roosters have different crows and, some are louder than others. Mr. Hesser stated the Board typically does not allow more than twelve chickens in a dense residential area, and roosters are never allowed. He asked if the petitioner can reduce the number of chickens to twelve with no roosters. Mrs. Regules pointed out they read minutes from previous meetings and noticed the Board occasionally allowed more than twelve chickens. She then request approval for more than twelve chickens. Mr. Atha clarified the Board typically only approves more than twelve chickens in an A-1 zone not dense residential areas. He continued saying more than twelve chickens cause a lot of noise, smell, and waste. He stressed allowing more than twelve chickens is closer to a small farm than a hobby. He noted chickens in a residential area are meant for a hobby use not a source of living. He then questioned waste removal. Mr. Regules responded they compost it in buckets. He went on to say his neighbor to the east uses some of the waste on his garden. He added the chickens roam between their two properties around the pine trees, but they do not cross either of their driveways. Mr. Atha clarified the waste is contained in buckets. Mrs. Regules explained they plan to construct a compost container at a later time.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello suggested approval of twenty chickens, since the property is long and narrow. He went on to say the chickens' area does not appear to be close to any neighboring residences. Mr. Miller noted chickens are typically penned in not roaming, but the neighbor is not opposed to them roaming on his property. Mr. Campanello stressed the chickens should be penned in, if only for traffic reasons. He continued saying the property is located close to a curve on CR 16, and Mr. Hesser pointed out the Head Start Program located across the street. Mr. Campanello stated he would like to see the chickens at least penned in, but he is not opposed to allowing twenty chickens. Mr. Miller stated he is against allowing any roosters. He explained the choke collars work, but it makes the rooster sound like it is choking. Mr. Hesser mentioned he is hesitant to exceed twelve chickens, since the Board has consistently stuck to that number. He agreed with the comment previously made in regards to the property being zoned residential not agricultural.



He added a penned in area should be required, and he suggested a revised site plan showing that area be submitted for staff approval. Mr. Campanello noted requiring the chickens be contained protects anyone who purchases the property to the east in the future.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres 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 for approval by staff showing a fenced in area for the chickens.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens at any one time and no roosters.
3. The chickens must be contained within a fenced in area.

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

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

Mr. Hesser explained the petitioners need to add a fenced in area to their site plan and submit it to staff for approval. Mrs. Regules asked their time frame for adding the fenced in area and reducing the number of chickens to twelve. Mr. Hesser responded the Board did not impose a specific time as long as they make reasonable efforts.

***\*\*It should be noted that Attorney Kolbus recused himself and stepped down\*\****

9. The application of **Maxim I. Ivanov** for an Amendment to an existing Special Use for an indoor/outdoor recreation facility (wedding venue) to allow for a larger event hall on property located on the north side of CR 36, 1,570 ft. east of CR 19, common address of 20745 CR 36 in Elkhart 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-0481-2020*.

There were 38 neighboring property owners notified of this request.

Tanya Miller, Progressive Engineering, 58640 SR 15, Goshen, was present representing the Ivanovs. She explained a Special Use for a wedding venue was previously approved, but they realized the building needed to be larger when they hired an architect. Mr. Campanello asked the size of the increased square footage, and Mrs. Miller responded it is 3,000 sq. ft. larger. Mr. Hesser pointed out the building is increasing by 50%, because the approved building was 6,000 sq. ft. Mr. Miller asked if the number of guests allowed at an event is increasing with the size of building. Mrs. Miller responded she is not aware of any increase in the number of guests. Mr. Atha clarified

the petitioners still plan to contain events inside of the building, and he asked if it will be sound proof. Mrs. Miller explained the petitioners planted several evergreens around the property lines to contain noise and light. Mr. Hesser questioned if any additional conditions and commitments were imposed with approval last year, and Mrs. Britton responded only the standard conditions/commitments. Mr. Miller asked the number of guests allowed, and Mrs. Britton responded 100 to 200. Mr. Atha asked if the proposed square footage is typical for 100 to 200 people. Mrs. Miller responded she is unsure if the requested square footage would be required, but part of the square footage is a covered outdoor patio area. Mr. Hesser asked if a patio was included on the original site plan, and she responded yes. Mr. Atha noted he does not believe music should be allowed on the patio, due to its close proximity to the neighbors.

Maxim Ivanov, 20745 CR 36, was present for this request and stated they would like approval to construct a larger building. He explained they needed more room than they thought once everything was calculated. Mr. Hesser asked if anything has been constructed yet, and Mr. Ivanov responded no. He went on to say the state release has not been completed, because Covid delayed everything. Mr. Campanello stated the site plan looks great. Mr. Ivanov stated they have planted 300+ trees, but Lowes does not have a large quantity of trees. Mr. Campanello clarified the original request was approved in 2019, but the petitioner would now like to expand the building by 50%. Mr. Ivanov reiterated part of the increase is for a covered patio.

Leanne Ivanov, 20745 CR 36, came on for this request. She stressed they will not allow DJs outside on the patio. She explained it will be another area for people to congregate, especially with Covid concerns. She added it is covered in case of rain. She went on to say the increase is being requested, because they were unaware of what size building they needed until meeting with an engineer. Mr. Atha clarified no loud music will be played on the patio. Mrs. Ivanov responded everything will be contained inside the building.

Esther Lanting, 1529 Firestar Dr., Goshen, was present online against the request but did not wish to speak.

Gary Haney, 1614 Harvest Dr., Goshen, was present in remonstrance with some questions. He stated he was told previous approval was limited to 150 people. Mrs. Kratzer clarified the application reflects from 100 to 250 people per event. Mr. Haney noted he believes a building of the proposed size would be classified as an A2 occupancy, which is for night clubs and banquet halls. He continued saying it appears a building that size not including restroom and kitchen areas could hold 755 people. He explained he reached that number by figuring 15 sq. ft. per person, which is specified by the building code. Mr. Campanello stressed the petitioner is only requesting approval for 100 to 250 people on the property. Mr. Haney questioned the need to increase the size of the building, when he believes 4,000 sq. ft. would be adequate for 250 people seated at tables and chairs. He added 5,000 sq. ft. would be large enough to have a dance floor. He stressed the proposed increase does not make sense to him unless they plan to hold larger events like concerts. He went on to say other activities could take place on the property that would generate more noise than a wedding venue. Mr. Hesser stated building codes are outside of the Board of Zoning Appeals' jurisdiction, but this request is only for 250 people. He continued saying 251 people on the property is basis for someone to file a complaint. He noted the building may be large enough for more people, but this request does not allow that. He stressed the petitioner is held to what is stated in the questionnaire. Mr. Haney then mentioned the entire building will need

to have a sprinkler system, but Mr. Campanello pointed out the Board deals with land use only. Mr. Haney noted the first request was approved with a 3 to 2 vote.

Kacy Showalter, 1517 Firestar Dr., was present opposed to this request and stated she is concerned about the parking lot expansion. She stated she believes the parking lot is gigantic, and her main concern is noise. She went on to say their neighborhood is peaceful, and an event center will change that. She stressed the car lights will shine into her house, and cars driving around the gravel parking lot create noise. She pointed out the hours of operation are 9 a.m. through 12 p.m., which are the hours she is awake. She reiterated her concern about noise, and she believes the proposed patio will be 5,000 sq. ft. She continued saying 200 people on a patio, drinking, will not be quiet. She stated she understands the original approval cannot be reversed, but she is concerned about the operation growing. She stressed the parking lot is huge, and she questioned the need when only 250 people are allowed at an event. She noted the parking lot appears to have tripled in size from original approval. Mr. Hesser questioned if the number of guests allowed will change with the new request. Mrs. Kratzer responded only the building and parking lot sizes are increasing. Mrs. Showalter questioned why the parking lot size is increasing, if the number of people remains the same. Mr. Campanello explained a certain number of parking spots are required for the amount of people allowed. Mrs. Showalter questioned the requirement. Mr. Campanello responded the number of parking spots required is a building code issue, and the Board only deals with land use. Mrs. Showalter questioned who approves the parking area. Mr. Campanello responded the State of Indiana and the Building Department regulate parking. Mrs. Showalter then asked if a different Board could approve more than 250 people, and she wondered if 750 people will be allowed at a later time. Mr. Hesser responded any increase in people would require Board of Zoning Appeals approval. Mrs. Showalter stressed this area is quiet, and she is concerned that will change. She then questioned the location of the 3'x5' lighted sign mentioned in the questionnaire. Mr. Campanello responded it will be located within the area allowed. Mrs. Showalter noted their neighborhood is concerned about light pollution and chose to not have street lights. She added approval will affect their property values, and she questioned who will want to live next to a gigantic building. She addressed the large houses for the elderly located in their neighborhood that were mentioned at the previous hearing, and she stressed they cause minimal traffic and noise. She noted they appear as large residences. She then mentioned a concern about drunk people stumbling to their cars, which will practically be in her backyard.

Mrs. Kratzer pointed out the mentioned sign is not included on the submitted site plan, and she suggested a revised site plan be submitted showing the sign location. Mr. Hesser questioned where the sign is mentioned, and he found it is under question #18 in the application. He then noted the questionnaire lists a 3'x6', single-sided, lighted sign, but the location is not shown on the site plan.

Heidi King, 1529 Firestar Dr., was present against the request. She stated she attended the first hearing a year ago to express her concerns about noise and lighting issues. She went on to say she was deeply disappointed and worried when the request was granted because of the potential impact on their lives. She noted events could potentially take place every night until midnight. She explained they tried to set their concerns aside, because they value being and having good neighbors. She continued saying it has been nice to wave and chat with the Ivanov family. She mentioned they have been working to get everything in order, and she appreciates that two rows of trees have already been planted. However, Mrs. King stated their concerns remain, especially

when the new request is for a 50% increase to the building and a significantly larger parking lot. She noted the proposed parking area will include 137, 9'x20' parking spaces, and she asked if 274 vehicles will fit in the parking lot, easily allowing over 500 people to attend. She stressed their main concerns are what could happen, and she does not want to keep track of the vehicles on the property. She then mentioned the planted trees are small, and it will take years for them to fill out and block the noise. She then noted question #21 in the application asks if they have spoken to their neighbors about the proposal. She continued saying the answer states, "This Special Use is an amendment to the previous Special Use that was given approval. The neighbors would have been notified to the intentions then and had no issues at that time." She stressed she does not understand the answer, because many neighbors voiced significant issues at the hearing. She added a petition against the proposal containing 85 signatures was submitted at that time. She mentioned several neighbors voiced their concerns about noise, light, and alcohol use at the hearing. Mrs. King stated some neighbors were unable to attend today's hearing due to work or other commitments, but they share similar concerns. She went on to say she believes some of the neighbors do not even know about the hearing. She explained she received a letter, but her neighbor further down the road did not receive one. She stressed the noise concern applies to potential impacts on their health. She noted several people who moved into Maplewood Estates have auto-immune disorders, including two in their twenties. She went on to say sleep is important for everyone, but it is imperative for those with auto-immune disorders. She stated she is very concerned about possible sleep disruptions. She then referenced a 2018 Elkhart Truth Article called *Cities Across Elkhart County Crank up Noise Control Efforts* in which the Health Officer is quoted as saying, "There are health effects from noise, there is no question about that." Mrs. King stressed she is not present to bash the Ivanovs' proposal, but she wants to ensure this is a win for the petitioners and their neighbors. She explained she spoke to Mrs. Ivanov about the proposed use, and she told her she wants everyone to be happy. She went on to say she cares about the Ivanovs success and happiness, but also the rest of the community's wellbeing. She mentioned she is unsure if the venue is compatible with the surrounding residential uses. She then asked if the Board members have seen the subject property. Mr. Hesser stressed the wedding venue has already been approved, and he request she limit her comments to the proposed addition. Mrs. King responded she believes her comments are relevant, because the petition states, "the neighbors will barely see it, and the neighbors are far away." She went on to say the neighbors are not far away, and the parking lot is up against the tree line. She noted the questionnaire does not contain correct information for instance it states no noise, smoke, vibration, etc. will leave the property. She questioned how no noise etc. will be confined to the property. She stressed she appreciates what Ivanovs are doing, and she will be happy, if no issues arise once the venue is constructed. She went on to say they may even support the venue, if they build trust and support with the petitioners. She noted at the last hearing Mr. Atha stated, "The property will look nice once the trees have matured. However, other wedding venues have been placed in dense residential areas, and the neighbors were miserable." She questioned how this venue will be different from others that have caused problems. She then asked if they can all work together, so the neighbors are not miserable.

Julia King, 312 River Vista Dr., Goshen, Goshen City Council Member at large, was present representing some of the neighbors. She stated she was surprised that no additional conditions/commitments were imposed on the original Special Use approval. She encouraged the Board to require a birm to block vehicle lights and alleviate some of the concerns that were raised.

She went on to say trees will take a while to grow large enough to block the light and sound. Mr. Hesser stressed the venue has already been approved, and this request is for an addition. Mrs. King questioned if additional conditions can be added with an amendment, since the use is expanding. She asked if sound amplification can be restricted after certain hours, because she is aware of event centers where the buildings shake the surrounding area. She continued saying they have imposed rules in the city restricting sound amplification after certain hours. She request the Board think creatively on ways for the venue and neighbors to happily coexist. She explained she was not at the original hearing, but she questioned if the Board should take some time to think of additional conditions that could alleviate the neighbors' concerns.

Don Yoder, 1202 Greencroft Dr., was present in remonstrance and stated he owns 18 acres across CR 36 from the subject property. He stated he grew up in the farm house directly across from the nursing home, and he has seen the area change over the years. He went on to say the road was gravel when he was a child, and it is now blacktop, which he believes will soon be resurfaced. He explained when he was a child water ran across the neighboring farm fields and ended up in the hay field, where they would ice skate. He continued saying the county then installed a ditch, which helped the drainage situation. He stressed some water still ends up on the property, but he has not seen it reach the same level as prior to the ditch. He noted a soccer club is located next to his property, which produces noise, and some of the neighbors are opposed to it. Mr. Yoder stated he lived in South Bend with his wife for 50 years where he was a landscape architect and his wife a teacher. He stressed unless young people are given something to do trouble will arise. He continued saying the ballpark has created something for young people, so the noise does not bother him. He mentioned the trees planted by the petitioner are approximately a few inches wide and 12 to 18 ft. tall. He went on to say 50 to 60 years from now the trees will be 20 ft. tall, but he will not live to see that. He pointed out two rows of evergreens are to be planted around the sides and front of the property. He continued saying one side now has two rows of evergreens, and one row has been planted along the other, which he assumes a second will be added. He noted additional trees were to be planted along the woods but have not been started yet. He added the trees were shown at 10 ft. apart, but evergreens cannot be planted that close together. He suggested the landscaping plan be thought through. Mr. Yoder stressed he always tried to trust people when he was in business, and he would also like to trust his neighbors. He went on to say he believes the venue could work, but he wants to make sure everything is handled properly. He questioned who the neighbors should contact, if everything is not followed. He stated he would like a name and address for a contact person before leaving the hearing. He reiterated he does not have an issue with the proposal, and the Ivanovs are adding onto their residence for their children, which is great. He stressed he wants everyone to work together. He then stressed he will be okay with the request, if everything that was mentioned is carried out. He then asked the proposed building color, because he believes it will be constructed in a barn style. He again mentioned they live in a great area, and he wants all of the neighbors to get along. He pointed out Grace Church is located at the end of CR 36, and a police officer directs traffic from their services. He questioned if a police officer will direct traffic after events on the subject property. Mr. Campanello responded the County Highway Department will determine the need for acceleration/deceleration lanes, and their approval is required before construction begins. Mr. Yoder asked if the Highway Department will consider the need for extra lanes when repaving the road. He then referenced the sign and three light poles, and he hopes the petitioners follow through with the requirements. He again request

information on who should be contacted, if the petitioners do not follow through. Mr. Campanello pointed out a chicken or pig barn is allowed by right on the subject property due to its size and zone. He stressed he would like to put the proposal into perspective by mentioning another possible use. Mr. Yoder responded he understands agricultural animals are allowed on the property, but he is more concerned about drunk people on the property.

Harold Wiggins, 1624 Harvest Dr., was present in remonstrance and stated he operated a service station in Goshen for forty years. He continued saying he unfamiliar with people and the government having differing opinions, but he believes they should do the right thing. He then pointed out his residence of ten years and a barbed wire fence installed by the petitioner on the aerial. He explained the petitioner is letting the grass/weeds grow 4 to 6 ft. tall, between the fence and property line, which he believes needs to be mowed down. He stressed people in his subdivision are upset, because the property appears to be going downhill. He continued saying the petitioner has not lived on the property long and appears to be a nice guy, but he wants to make sure the area is properly maintained. Mr. Wiggins then stated he can hear a lot of noise on his property, and the neighbors are concerned that this operation will interfere with their home life. He then asked if alcohol will be served at the venue, and Mr. Campanello pointed out the Board only deals with land use. Mr. Wiggins stressed he grew up with an alcoholic father, so he knows the problems alcohol can bring. He went on to say he is totally against allowing alcohol at the venue. He stated prior to living at his current residence he owned sixteen acres with cattle and horses, but they were very cautious about not causing disturbances with the neighbors. He went on to say he believes the petitioner is a good man, and they already spoke about the grass and weeds. He reiterated he wants to ensure everything is property handled.

Gary Miller, 1631 Harvest Dr., was present with a concern about lighting for the parking lot. He stated he was not present at the last hearing, but he does not want the parking lot lights to shine on the neighboring properties. He continued saying he understands the lights can be very bright, and they should not shine into neighbors' houses at night.

Mrs. Tanya Miller came back on and stressed the petitioners are doing their best to minimize the effects of this operation on their neighbors. She continued saying the petitioners can address the neighbors' concerns. Mr. Atha questioned the number of proposed parking spaces, and Mr. Campanello responded approximately 133. Mr. Hesser pointed out the questionnaire states the request is for a small increase in size, but a 50% increase is not a slight increase. He went on to say it also states that no opposition was present at the previous hearing. Mrs. Miller explained she was not present at the previous hearing or aware of the opposition that was present.

Mrs. Ivanov came back on and stated she has a daughter with cystic fibrosis, a terminal disease. She stressed she understands the autoimmune disease concerns, and she explained her daughter has learned to be six feet apart from everyone her entire life. She went on to say she understands the importance of sleep, because her daughter also needs her sleep. She then went on to address the mentioned concerns about drunk people. She stated her parents own an event center on a golf course, and they have never had an issue with drunk people. She continued saying it will not be an issue as long as a police officer is present. She stressed their family lives on the property, and they also do not want any stumbling drunk people. She added they will be present the entire duration of the events. She then proceeded to address the tree issue. She explained they would purchase larger, mature trees if possible, but they have been working to comply with the tree requirement. Mr. Campanello clarified the lights will shine down on the parking lot.

Mr. Ivanov also came back on and stated he spoke to the neighbor about the grass at the back of his property. He explained that property is an easement owned by NIPSCO, and animals including small deer live in the grass. He stressed he cannot mow it down with animals living there, that his children enjoy. He went on to say the grass situation does not apply to this meeting. Mr. Ivanov stated they planted Green Giant Trees, which grow 2 to 3 ft. every year, and he believes their growth is substantial. He added the trees will be a good size in 5 to 6 years. He added some of the trees are Eastern Pines, which grow around 2 ft. a year. He explained some of the trees they planted are smaller, but it is very difficult to obtain trees due to Covid. He added he can provide a letter from Lowes and some other local nurseries stating he is on their waiting list for trees. He went on to say contractors need trees too, and he just purchased 100 trees that are ready to plant. He stressed he is doing everything he has promised. He pointed out he even plans to plant evergreens along the back of his property, which already has substantial tree coverage for his neighbors. Mr. Ivanov then addressed the parking concern and stated he is trying to make the property as nice as possible. He went on to say any lighting will follow the code and be pointed down. He noted the sign was shown on the original site plan at the front of the property. Mr. Miller questioned the need for a 50% larger building. Mr. Ivanov responded the larger building will provide guests more space to spread out. He continued saying he is unsure how long Covid restrictions will last, so he would like extra space to comply with the restrictions. He stressed building code may even change due to the current situation, and the proposed building may end up being small for 200 people to social distance. He reiterated he is trying to accommodate everyone. Mr. Miller explained the remonstrators are concerned that the number of guests will grow from 200 to 700. Mr. Ivanov responded he will adhere to all guidelines imposed.

Mrs. Julie King came back on to ask a question. Mrs. King asked if additional conditions/commitments can be imposed later on, if sound and lighting issues arise. Mr. Miller questioned if a condition addressing sound was imposed with original approval. Mrs. Kratzer pointed out no additional conditions/commitments were imposed. Mr. Miller recalled the petitioner planned to sound proof the building, and Mrs. Kratzer responded it may have been a different request. Mr. Campanello stated complaints can be filed with Planning & Development, if problems arise. Mr. Atha questioned if the county has a sound ordinance. Mrs. King responded she is unsure, because the city has different ordinances than the county. Mr. Atha stated complaints can be filed and addressed by the county.

Mrs. Showalter came back on with an additional question. She asked who approves the parking lot lights. She stressed they did not install streetlights in their neighborhood due to light pollution, and now large parking lot lights and car lights will be shining into her backyard. She added the pine trees are not large enough to block the light. She stated Mrs. Julie King mentioned a berm, and she asked if that would block the light better than trees. Mrs. Kratzer explained if it is documented that the light posts shine onto her property, she can request that a shade be placed over the lights. Mrs. Showalter questioned if anything can be done about vehicle lights shining onto her property, and Mrs. Kratzer responded the county does not have any ordinances regulating vehicle lights. Mr. Miller stated the parking lot has already been approved. Mrs. Showalter stressed the additional parking has not been approved, which will expand closer to her property. Mr. Hesser noted statements made in the questionnaire and at the public hearing are conditions of approval, and if violated, a complaint can be filed. Mrs. Showalter stressed her concern with this request is the larger parking lot, which will interfere with her property.

The public hearing was closed at this time.

Mr. Atha asked the Board's opinion on headlights in the parking lot, and he believe the trees will eventually block the light. Mr. Campanello responded the Board should allow the site plan to go through all the required county reviews, because all county ordinances will be enforced with the building permit. Mr. Miller clarified the county birm/barrier code does not apply to this property. He went on to say he was not pleased with the first application due to the proximity of the neighbors and noise concerns, but a lot of work is being done to control the noise and lighting. Mr. Hesser stated he is unsure how he voted on the previous approval, but he would assume he was against it due to the lack of additional conditions/commitments. However, the use has already been approved. He went on to say he was unhappy with the misrepresentations made in the questionnaire, because neighbors were present at the previous hearing in remonstrance. He mentioned one of his main concerns with the last request was lack of specifics, but a professional engineer is now involved to properly design the building. He noted he is in favor of approval, since the number of guests will not increase. He added a revised site plan is needed showing the sign location. Mr. Atha asked if a commitment should be added that no music be played outside. Mr. Campanello responded the petitioners' representation is part of the record. Mr. Hesser added any breach in their testimony could result in a legitimate complaint. Mr. Miller asked why Attorney Kolbus was not present, and Mr. Hesser explained he had a conflict.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for an indoor/outdoor recreation facility (wedding venue) to allow for a larger event hall 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 for approval by staff showing the sign location.

The following commitment was imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval, the petitioner's testimony, and as represented in the Special Use Amendment application.

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

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

***\*\*It should be noted that Attorney Kolbus returned to the Board at this time\*\****

10. The application of ***Thomas D. Lechlitner & Christie L. Lechlitner, Husband & Wife*** for a Special Use for a home workshop/business for an HVAC business and for a 30 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for the placement of a storage building 20 ft. from the centerline of the right-of-way of Spring St. on property located on the northeast corner of



Waterford St. & Spring St., common address of 300 E. Waterford St. in Olive 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-0468-2020*.

There were 24 neighboring property owners notified of this request.

Thomas Lechlitner, 300 E. Waterford St., was present for this request. He stated he has a change to his request that he spoke to staff regarding. He explained he originally planned to place a pre-built structure on the property, but he would now like to instead add onto his existing garage. He then submitted a revised site plan *[Attached to file as Petitioner Exhibit #1]* and a letter from the Town of Wakarusa giving him their approval *[Attached to file as Petitioner Exhibit #2]*. Mr. Hesser clarified the new proposal is to add onto the existing garage. Mr. Lechlitner stated he is a plumbing, heating, and air conditioning contractor in Wakarusa and has been in business for 65 years. He continued saying they now plan to downsize. He noted he bought out his brother, who was in business with him, and he no longer needs the business property or shop. He explained he would like to operate off of his property. Mr. Lechlitner explained the new addition will be sided to match the existing garage, and it will appear residential. He pointed out he needs the Developmental Variance, because his building would be in the middle of his backyard at the 50 ft. setback. He stressed his wife is opposed to a building in that location. Mr. Hesser asked if he has considered placing the addition even with his garage. Mr. Lechlitner responded he considered it, but he would like to place it 4 ft. further to the west. He continued saying constructing it flush with the existing garage would put it 4 ft. further into his backyard. He stated his preference would be to place the addition at the proposed location. He explained Spring Street dead-ends just past his neighbor's property. He added the chances of the street being extended in the next 50 years is slim. Mr. Miller asked if the Board can approve the revised site plan. Attorney Kolbus responded yes, because the request is for a home workshop/business and a 20 ft. setback that is not changing. He mentioned the request will need to be approved in accordance with the revised site plan. Mr. Campanello added the Town of Wakarusa gave their approval for the request, and Mr. Hesser pointed out the letter states it meets their code. Mr. Lechlitner noted he spoke to multiple town board members, and no one was opposed to it. He added none of his surrounding neighbors have shared any concerns with him. Mr. Hesser pointed out the hardship for this request is that placing the building at the required setback would encroach on his lawn. Mr. Lechlitner responded his wife would not be happy with a building in the middle of their yard. He added the power pole is located a foot closer to the road than his proposed building, and the utilities are located in the street itself not the right-of-way.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he has no issues with the home workshop/business. He then addressed the Developmental Variance, which is both a minor hardship and a minor change from what exists on the property. He continued saying the street in question is a dead-end, and he would request the addition be moved back even with the existing garage, if it was a through street. He reiterated he does not have a problem with the proposed location.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for an HVAC business 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 for approval by staff showing the sign location, distance between structures, and setbacks for the proposed building.

The following commitment was imposed:

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

Further, the motion also included that a 30 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for the placement of a storage building 20 ft. from the centerline of the right-of-way of Spring St. be approved based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The proposed structure will not hinder sight distance.
2. Approval of the request will not cause substantial adverse effect on the neighboring property. This is a 0.4-acre residential property in the Town of Wakarusa and the property will remain residential in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.
3. The petitioner must provide a revised site plan for approval by staff showing the sign location, distance between structures, and setbacks for the proposed building.

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

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

11. Mrs. Kratzer presented a staff item to rescind a Special Use for *William D. & Sally A. Stephens* (SUP-0254-2017). She explained the property owners' requested the rescission, because they no longer have the agricultural animals on the property.

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

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

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

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

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

12. The application of **Levi L. Beachy** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the northeast corner of CR 11 & US 6, common address of 72430 CR 11 in Union 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-0504-2020*.

There were 11 neighboring property owners notified of this request.

Mr. Miller questioned why rabbits were not included in Commitment #2, which limits the request to 10 chickens, no roosters. Mrs. Kratzer responded rabbits can be added to the commitment.

Levi Beachy, 72430 CR 11, Nappanee, was present for this request. He explained he grew up on a farm and has no intention to have a large number of animals. He continued saying his children have expressed interest in small 4-H animals, and they will only have a few chickens and rabbits. He stressed the request is mainly for more personal storage than allowed, but he was advised to apply for the Special Use when he mentioned possible agricultural animals. He added he does not intend to have a small farm. Mr. Miller asked if the animals will be contained with a fence, and Mr. Beachy responded no. He continued saying he will not have enough animals to warrant a fence, because he only plans to have a few chickens. Mr. Miller pointed out he could have ten chickens, but Mr. Beachy stated he does not plan to have that many. Mr. Atha mentioned he is comfortable approving the proposed number of animals without a fence.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an 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 commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/7/2020) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of ten (10) rabbits and ten (10) chickens at any one time, no roosters.

Further, the motion included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 7/7/2020) and as represented in the Developmental Variance application.

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

**Yes:** Joe Atha, Tony Campanello, Roger Miller.

Mr. Beachy clarified when he sells his property a new Special Use would be required to have horses. Mrs. Kratzer explained whoever purchases the property is responsible for bringing requesting any additional animals. Mr. Beachy noted he cannot list his property as agricultural use approved. Mr. Atha pointed out approval for chickens and rabbits runs with the land.

13. The staff item for William D. & Sally A. Stephens (SUP-0254-2017) was previously heard as item #11 on page 18.

14. The meeting was adjourned at 10:46 a.m.

Respectfully submitted,

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Laura Gilbert, Recording Secretary

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Randy Hesser, Chairman

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Tony Campanello, Secretary