

**MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 16<sup>th</sup> DAY OF JANUARY 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 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, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

2. A motion was made and seconded (*Lyon/Atha*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 19<sup>th</sup> day of December 2019 be approved with the following correction: Mr. Hesser stated a sentence in the second full paragraph on page 9 states, “the array as far away from the property line as possible without interfering with the trees” and he believes it should read, “without being interfered with by the trees”. The motion was carried with a unanimous roll call vote.

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

4. A motion was made and seconded (*Lyon/Miller*) to elect the following Board members: Mr. Lyon as Hearing officer, Mr. Hesser as Chairman, Mr. Miller as Vice Chairman, and Mr. Campanello as Secretary.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

5. The application of *Burtsfield & Erb Farms, LLC* for a 32 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 43 ft. from the centerline of the right-of-way on property located on the South side of CR 44, 350 ft. East of CR 31, common address of 15902 CR 44 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 #DV-0888-2019*.

There were 12 neighboring property owners notified of this request.

Alecia Bame, Progressive Engineering, 58640 SR 15, was present for this request representing the petitioners. Mrs. Bame stated Mr. Erb is subdividing property for his children, and he is requesting a setback Developmental Variance on the existing residence in case it needs to be rebuilt in the future. Mr. Hesser asked how long the residence has been on the property, but Mrs. Bame was unsure. However, she stressed it is an older farm house. Mr. Lyon asked if the existing residence is the original farm house, and Mrs. Bame was unsure. Mr. Hesser asked staff if the property is currently considered legal non-conforming, and staff responded yes.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he believes this situation is typically approved, and this request was likely prompted by the subdivision.

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 32 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 43 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 12/3/19) and as represented in the Developmental Variance application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

6. The application of *John Ray Nisley & Wanda E. Nisley, 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 East side of CR 35, 650 ft. North of CR 34, common address of 62872 CR 35 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Kratzer presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0868-2019*.

There were eight neighboring property owners notified of this request.

Paul Hochstetler, Freedom Builders, 54824 CR 33, Middlebury, was present for this request on behalf of John & Wanda Nisley. He explained the petitioners live on the neighboring property, but they would like to downsize as they get older. He then pointed out a location on the subject property, where they would like to construct a small barn for a few horses. He noted one of the petitioners' children plans to move onto the northern property, where they currently reside. Mr. Atha questioned the slope of the property, and Mr. Hochstetler explained the terrain on the aerial. He also pointed out a 15 ft. wide strip of property that the petitioners purchased from the adjoining southern parcel with the intention to construct a barn across the property line. He stated he thought the deed would add that strip to the existing parcel, but they ended up creating a separate parcel. Mr. Atha clarified the northern property will be owned by the petitioners' son, and the subject property does not have a severe slope. Mr. Miller noted the request is for only two horses. Mr. Hesser clarified the residence is existing.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha stated the Staff Report does not include a commitment limiting the number of animals allowed, and Mr. Miller pointed out the number was included in the application.

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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 11/25/19) and as represented in the Special Use application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

7. The application of *Coleman E. Foley & Marilyn K. Foley, Husband & Wife* for a Special Use for an indoor/outdoor recreational facility (wedding venue) on property located on the Southeast corner of CR 2, 4,500 ft. East of CR 37, common address of 11748 CR 2 in York 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-0908-2019*.

There were four neighboring property owners notified of this request.

Mr. Miller asked why this request is necessary, since the Board approved a Special Use for a wedding venue on the subject property in May. Mrs. Foley explained she request all previous Special Uses be rescinded, and Mr. Atha reiterated it was rescinded in October. Mrs. Foley stated she was not planning to operate a wedding venue but instead she wanted to operate a message studio. However, she continued she has now realized how many people loved the wedding venue, and several have stopped by to ask when they plan to re-open. She explained this request is to again approve the wedding venue.

Marilyn Foley, 11748 CR 2, Middlebury, was present for this request. Mr. Miller asked if the Staff Report should not have listed previous approval, and Attorney Kolbus responded previous action needs to be included in the history. Mr. Hesser noted the Staff Report history should also reflect that the wedding venue approval was rescinded. Mrs. Kratzer responded on October 17<sup>th</sup> the Board approved the message therapy Special Use and rescinded all others on the property. Mr. Hesser asked if approval of this request will terminate the message therapy Special Use, and Mrs. Foley responded no. Mr. Hesser clarified both the message therapy and wedding venue Special Uses will remain active. Mrs. Foley added the bed and breakfast request should remain inactive. Mr. Lyon questioned the use of the access easement, and Mrs. Foley responded it provides access to the residence behind them.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha mentioned the wedding venue was not an issue in the past.

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 indoor/outdoor recreational facility (wedding venue) be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 12/12/19) and as represented in the Special Use application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

8. The application of *Lutheran Church of the Redeemer* for an Amendment to an existing Special Use for a church to allow for a sign on property located on the Southeast corner of Benham Ave. & Mishawaka Rd. (CR 20), West of CR 9, common address of 3300 Benham Ave. 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-0890-2019*.

There were 31 neighboring property owners notified of this request.

Gary Potts, Professional Permits, 58171 Dragonfly Ct., Osceola, was present representing the Lutheran Church along with Lighthouse Vineyard Church, the current tenant of the building. He explained the church has an existing Special Use, but signs were not included in approval. He continued saying this request is to amend their Special Use to add an existing sign on the corner of Benham Ave. & Mishawaka Rd., which is double-faced and v-shaped. He noted they also have another double-sided, post sign positioned along Mishawaka Rd. Mr. Potts stated Lighthouse Vineyard Church has rented the building for a while and staffs the church during the week. He reiterated the purpose of this request is to add two signs to the existing Special Use for advertising church services/location to the public. Mr. Lyon verified the subject property is not incorporated into the city. Mr. Miller asked if both signs are identical. Mr. Hesser responded one sign is a V-shape, but Mr. Potts added the text is the same. He went on to say their size and location are different. Mr. Hesser pointed out the site plan includes a building labeled proposed maintenance building, and he clarified it actually already exists.

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 an Amendment to an existing Special Use for a church to allow for a 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 12/4/19) and as represented in the Special Use Amendment application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

9. As a staff item, Mr. Auvil presented the minor change request for a Special Use for *Avery L. Aragona & Samuel J. Burns* (SUP-0414-2019). He explained the request is to amend the approved site plan to allow for a tree buffer instead of the fence. He noted a revised site plan along with a letter from the neighbor to the west was included in the Board's packet. He stressed the neighbor is actually the one requesting trees be allowed in place of the fence. He stated staff recommends approval of this request as a minor change.

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 approve the request as a Minor Change.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

10. Mr. Auvil presented another staff item for a minor change request for *Myron L. Yoder & Karla Jo Yoder, Husband & Wife* (DV-0838-2019). He explained this request is to amend the approved site plan to allow the proposed accessory structure be constructed closer to the road. He continued saying the Zoning Ordinance only allows a building to move a designated number of feet closer to the road than allowed, and this change exceeds that amount. However, he continued the building will remain several hundred feet from the road. He stated staff recommends approval of this request as a minor change. Mr. Hesser clarified the correct site plan, and he questioned the change being made. Mr. Auvil explained the proposed accessory structure is moving 25 ft. closer to the road than approved, but it will remain 1,200 ft. from the road. Attorney Kolbus pointed out the revised site plan is labeled as new. Mr. Auvil stressed the Zoning Ordinance only allows him to approve moving a structure 15 or 20 ft. closer to the road. He went on to say the minor change request is required, because the building will be moved beyond that. Mr. Hesser clarified this change cannot be approved by staff. Attorney Kolbus explained staff can only approve up to a 10% change, and the Board can approve any change 11% - 20%.

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 approve this request as a Minor Change.

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

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

11. Mr. Auvil the presented a staff item for the reinstatement of a Special Use for *Dana Bontrager & Lori Bontrager, Husband & Wife* (SUP-0751-2018). He explained this request is to reinstate the Special Use that was rescinded at the Show Cause Hearing on 12/19/19. He noted the petitioners submitted a recorded commitment that was received by staff 12/10/19. However, he continued it was placed in the wrong folder. Mr. Hesser clarified as far as staff is concerned the petitioner met the required condition.

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

**Motion: Action:** Approve, **Moved by** Roger Miller, **Seconded by** Joe Atha that the request be reinstated, because the commitment was returned prior to the Show Cause Hearing.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

12. Mr. Auvil noted the Zoning Ordinance changes/updates will be heard by the Commissioners on Tuesday, January 21, 2020, at 9:00 A.M.

13. The application of *Luis E. Sanchez Flores (Buyer) & Dennis R. George & Sandra S. George, Husband & Wife (Sellers)* for a Special Use for warehousing and storage of RVs on property located on the South side of CR 18, 1,900 ft. West of Old CR 17, common address of 22620 CR 18 in Concord 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-0914-2019*.

There were seven neighboring property owners notified of this request.

Luis Sanchez, 2630 Francis Ave., Elkhart, was present for this request as the owner of the transport company that would utilize this property for RV parking. He explained the pictures included in the Staff Report are not of the subject property, so staff may have made a mistake. Marlette Reyes, 2630 Francis Ave., Elkhart, the petitioner's wife, also came on for this request. She noted the aerials are correct, but the pictures are not of the subject property. Attorney Kolbus reiterated the aerials are correct, but the pictures should be disregarded. Mr. Lyon asked if they discussed their plans with the neighbors. Mrs. Reyes responded they sent letters to all of the neighbors, except the adjacent vacant property, because they were unsure who owned it. She continued saying they did not receive a response from anyone. Mr. Atha asked if the RVs will use the existing driveway, and Mrs. Reyes responded yes. She added the RVs will be parked where the A-1 appears on the aerial. She went on to say they plan to install a fence and security cameras. She explained she has a degree in criminal justice and plans to pursue a career in law enforcement. She continued saying she believes an officer is located in the area. Mrs. Reyes stated they request 50 as the maximum number of RVs on the property, but they do not plan to have that many. She noted they put down a larger number, because they did not want to request too few. She explained their drivers will utilize the yard, but not all RVs will be brought there. She mentioned RVs are sometimes picked-up at the manufacture and taken directly to the dealer. She stressed they wanted to find property within their budget to avoid paying rent for a lot. Mr. Miller asked if the property is already used for parking RVs, and Mrs. Reyes responded no. She explained they currently rent a different location, and Mr. Sanchez added they plan to purchase the subject property. Mr. Miller asked if the parking area will be paved or gravel. Mr. Sanchez responded he plans to place gravel for parking the RVs, and he pointed out the general area on the aerial. Mr. Lyon asked if the entire property will be fenced in, and Mr. Sanchez responded yes. Mr. Lyon also clarified it will be gated. Mr. Atha questioned if the property is relatively flat, and Mr. Sanchez responded yes. Mr. Norman clarified they plan to leave the center of the property vegetation with gravel around it. Mr. Hesser noted the questionnaire states it will be a 24 hour operation, and he questioned if drivers will have access to the property 24 hours a day. Mr. Sanchez responded drivers sometimes access the property early in the morning and around 10 p.m. towards the end of the month. He continued

saying RV traffic will not take place 24 hours a day. Mr. Miller questioned the amount of traffic they anticipate, and Mr. Sanchez responded around five trailers a day. He continued saying some of the RVs never even come to the yard, because the drivers transport them straight from the manufacture to the dealer. Mr. Miller mentioned the petitioner previously stated 50 was an exaggerated number, and he asked how many they actually anticipate. Mr. Sanchez responded twenty stored on site with only six to seven units transported a day. Mr. Atha clarified about six to seven units come to the property a day, and the same amount typically leave. Mr. Hesser clarified they may store up to twenty RVs on the property at any given time. Mrs. Reyes stressed manufactures want their units gone by the end of the month, so they will store the most units then. Mr. Norman added CR 18 will also have the most traffic on that day. He continued saying the subject property totals 4.8 acres, and he asked if 2.5 acres of it will be used for RV parking. Mrs. Reyes responded yes. Mr. Atha questioned from what direction the RVs travel. Mr. Sanchez responded they come from CR 17. Mr. Norman clarified the RVs will turn west onto CR 17, then south onto the property. He stressed his concern is that vegetation will be left to grow in the storage area, and he questioned how he will maintain it with RVs parked there. He stated the county has ordinances for dealing with rank weed/vegetation, and he reiterated his concern about maintenance of the vegetation. He then asked if they will strip the top soil off to install a gravel lane, and Mr. Sanchez responded no. He explained they will put gravel down on top of the soil, where the RVs will be parked. He went on to say he does not have to put gravel down, if the Board is opposed to it. Mr. Hesser asked if the petitioner will be able to keep the grass mowed in the storage area. Mr. Sanchez pointed out where he plans to place gravel on the aerial. Mr. Auvil noted the Rank Weed and Vegetation Ordinance does not apply to this situation, because the subject property is over three acres. He then also pointed out the proposed site plan shows a separate entrance/exit for the RVs. Mr. Lyon asked if the petitioner plans to reside in the residence, and Mr. Sanchez responded yes. Mr. Miller clarified only a few residences are located in close proximity to the subject property. Mr. Norman noted the subject property is in the center of three houses. Mr. Sanchez pointed out a residence located across the street. Mr. Norman asked if the subject property is located close to an intersection with a traffic light, and Mrs. Reyes responded yes. Mr. Lyon mentioned it is near the CR 18 & CR 17 intersection. Mr. Norman added a Methodist Church is across the street, and Mr. Sanchez pointed out a second church in the area. Mr. Norman then questioned water retention, and he stressed most businesses are required to have that. Mr. Auvil stressed, if more than an acre, 43,560 sq. ft., is disturbed all Rule 5 and County Storm Water Ordinances must be followed. Mr. Norman stated water retention is a concern along with maintenance of the vegetation. He mentioned a 45 acre site north of Bristol stripped off all of the top soil and hauled in 6 in. deep of compact stone which caused the need for water retention due to disturbing more than an acre. He stressed he does not want the petitioners to start this project and then end up in trouble with the Storm Water Board due to needing a SWPPP. He went on to say the petitioners have a few additional channels they need to go through to ensure this is done correctly. He stressed he wants to see this operation done the right way. Mr. Sanchez responded he is willing to do whatever the Board requires of him. Mr. Miller noted a permit will probably be needed from the Storm Water Board, and Mr. Atha suggested approval require the petitioners obtain a SWPPP. Mr. Hesser asked if County Highway approval will be needed for the second entrance, and Mr. Auvil responded yes. He continued saying he feels Highway will require

a commercial drive, and they do not typically allow two entrances for a residential parcel. Mr. Miller stressed the Board does not consider whether or not a second driveway will be allowed.

Sandy George, the current owner of the subject property, 22620 CR 18 came on in favor of this request. She stated the petitioner impressed them, because he is going through the proper channels for approval. She went on to say he has been in the transport business for a while. She added he has a residence and rents a separate property to store the RVs, but he would like to live and store RVs on the same property. She stressed their property appears to fit his needs well. She noted they could sell their property as a residential lot, but they did not believe this operation would be a problem due to the junk/salvage yard on the adjoining property. She went on to say the neighboring property has 50 to 70 junk vehicles there all the time, and Mr. Sanchez plans to install a fence, which would improve the appearance of the property. She added she believes he will maintain the property as evidenced by the condition of his current residence. Mrs. George reiterated the pictures included with the Staff Report are not of their property. She explained their property is located catty-corner to Ivy Tech, which increases traffic in the area. She continued saying three churches and a Love's Truck Stop are located within walking distance. She stressed the truck stop increased large truck traffic in the area, so CR 18 will be able to handle the increased traffic from this operation. She added the intersection of CR 18 & CR 17 is well equipped to handle any generated traffic. She stated the petitioner is seeking approval through the proper channels instead of operating without approval as the neighbor is doing. She added she is sure he will comply with anything the Board requires. Mr. Norman questioned the location of the mentioned salvage yard, and Mrs. George responded it is to the east of the subject property. Mr. Norman questioned if 75 vehicles sit on the property, and Mrs. George responded yes at times. Mr. Lyon clarified an excavation company was previously on the subject property, and Mrs. George stated their operation has moved. She explained they did not have traffic in/out of the property, because they simply stored her husband's heavy equipment there. She noted this operation will cause a small increase in traffic. Mr. Hesser request she point out the mentioned storage yard, Ivy Tech, and churches on the aerial. She then pointed out the junk/salvage yard, and she stressed the property is overgrown and covered with junk. Mr. Atha then pointed out Ivy Tech and Beulah Missionary Church. Mrs. George added Faith United Methodist Church and Crossroads are located at the intersection of CR 18 & CR 17. She noted the neighboring property to the west and behind the subject property is agricultural, and Mr. Hoover, the owner, is present today. She noted no residence is located on that property, and she pointed out another property owned by a neighbor who is also present. Mr. Atha questioned a building on the neighboring property, and it was found to be a barn belonging to Herb Hoover.

Mr. Auvil submitted an email from Steve Chupp, 22716 CR 18, in remonstrance to this request *[Attached to file as Staff Exhibit #1]*. He noted his concern is the increase in traffic and its effect on his property values. He also submitted a letter from Karen Powell, 22611 CR 18, in remonstrance *[Attached to file as Staff Exhibit #2]*. Attorney Kolbus pointed out 22611 CR 18 is directly across the road from the subject property. Mr. Auvil stated her concerns also include the increase in traffic and effect on her property value.

Nancy DeMarco, 22506 CR 18, came on opposed to this request, and Attorney Kolbus pointed out her residence on the aerial. She stated she agrees with staff, that this is not a good location for a commercial use, due to the traffic and noise it will produce. She noted she did not receive a letter from the petitioners, so she did not have a chance to respond directly to them. She

stressed commercial property is available in other places like Elkhart City, that would be better suited for this operation. She explained she owns Spirit Storage in Elkhart, and several properties around it are available. She again stressed this operation should take place in an industrial area, because it will produce traffic and noise. She went on to say the salvage yard next door is illegal, and they never received approval from the BZA. She added it has been an ongoing issue for three years, and she does not want this property to become another problem. Mr. Atha questioned the mentioned illegal use. Mrs. DeMarco explained the neighbor adjoining the subject property brings in truckloads of scrap material that he cuts up at night to scrap. She stressed the area is zoned agricultural, but it is slowly being overrun by commercial uses.

Herb Hoover, 60301 CR 19, was present against this request and pointed out his property on the aerial. He explained he uses the property for agricultural and recreational uses. He stated a soccer field and ball diamonds are located close to the subject property, and it is difficult for him to enter/exit the property with his farm equipment when the games let out. He stressed if the entrance is not correct then the RVs will stop traffic by taking up both lanes when pulling onto/off of the road. Mr. Atha asked if it is common for him to stop traffic to pull-out, and Mr. Hoover responded yes. Mr. Atha then questioned the time of day when it is difficult to pull-out, and Mr. Hoover responded typically late afternoon/evening. He noted mid-day traffic is not as heavy. Mr. Atha mentioned Ivy Tech likely produces a large amount of traffic, and Mr. Hoover stressed the proposed operation does not fit in with this area due to the churches and Ivy Tech. Mr. Atha questioned a pond on the property, and he asked if it is fed by a stream. Mr. Hoover then pointed out the wetland area on the aerial, and a section that floods easily. He noted part of the property is not even drivable, and Mr. Atha clarified Mr. Hoover would not drive back there right now. Mr. Hoover stressed it is only drivable, during a drought. Mr. Lyon mentioned this area has a high water table. Mr. Hoover raised a concern that his property value will decrease with approval of this request. He stressed he gets along well with the current owners, but the section of his property adjoining the subject property holds all of the value. He went on to say he believes approval of this request will drop his property to ¼ its current value. Mr. Norman asked the number of acres he owns, and Mr. Hoover responded 59 almost 60 acres. He explained it is too long and narrow to develop for housing, and probably only one 10 acre building site is possible. He stressed a building site would be worth a lot, but it will not be worth anything if RV storage is approved next to it.

Mr. Sanchez came back on and stressed no manufacturing will take place on the parcel, so the operation should not produce a large amount of noise. He continued saying the only noise produced will be from the pick-up trucks. He stated when he first spoke to Mrs. Gregory he asked who owned the property to the west, because he would eventually like to purchase it. He stressed as the business grows he would like to purchase that property. Mrs. Reyes came back on and added they will not have neighbors to the west, if they purchase that property. Mr. Hesser noted the site plan indicates the property will be fenced in, and he asked if they plan any screening such as trees or slats. Mr. Sanchez responded they plan to install a chain link fence with slats. Mr. Hesser questioned the type of RVs they plan to store on the property, and Mr. Sanchez responded travel trailers and 5<sup>th</sup> wheels. Mr. Miller asked if they discussed the driveway with the Elkhart County Highway Department. Mrs. Reyes stated they already filed a petition with them.

Mrs. Gregory came back on. Mr. Atha asked how often she notices water on the south portion of her property. Mrs. Gregory pointed out an area on the aerial where they see a lot of

water in the spring. She added they do get some water in one corner of their basement when the water table rises in the springtime. She continued saying the property does not become un-drivable until it gets closer to the neighbors' property. She stressed the petitioner plans to place the limestone closer to the residence, and it may even help the water issues. She stated she does not believe it will be a muddy mess like the adjoining property.

Mrs. Reyes came back on and suggested making an agreement with Mr. Hoover to stop transporting RVs during the hours he uses his equipment. Mr. Atha explained he asked questions to gauge the amount of traffic on CR 18. Mr. Hesser clarified deliveries to the property will not take place 24 hours a day, and deliveries will typically be during the day time. Mrs. Reyes stated on rare occasions deliveries are made after hours, but they typically happen during the manufactures business hours.

The public hearing was closed at this time.

Mr. Hesser stated RV storage is definitely a need, but it should not be allowed everywhere. He continued saying requests in semi-rural areas are difficult. Mr. Atha added the neighbors are typically a factor in the Board's decision. Mr. Hesser noted they listed the maximum number of RVs they could fit on the property as 50, and he understands why they asked for more RVs than anticipated to avoid coming back before the Board. He stated the petitioners mentioned they only need a maximum number of 20, and he does not believe 20 RVs with proper screening will be an issue. He added the petitioners also need to obtain additional permits to deal with the concerns that were raised, including the second driveway and drainage. Mr. Atha noted if a different department's approval changes the site plan, it will need to be approved by the Board. Mr. Norman again voiced a concern about leaving vegetation, and the problems it will cause during the spring freeze/thaw. He continued saying he believes the property will end up with a few inches of mud, and then trucks transporting the RVs will track mud onto CR 18. Mr. Miller noted mud will become a problem if gravel is placed on the property without removing the top soil. Mr. Norman stressed stripping off the top soil helps prevent mud, and the property he mentioned south of Bristol does not have any issues with mud on the road no matter the season. Mr. Miller stated his initial concern was the additional traffic produced by this operation, because CR 18 is heavily traveled. He went on to say he does not believe five or six units a day will affect traffic. Mr. Atha mentioned US 20 is located near the subject property, but Mr. Norman pointed out no entrance/exit ramp to US 20 is located there. He continued saying west of the US 20 overpass, CR 18 drops down a steep hill, with CR 13 & CR 115 dead-ending into it. He added a dog-boned, round-about is proposed in that area, which he believes is a concern. He stressed RVs from manufactures on the west side of Elkhart will use that route to reach the property. Mr. Miller stated he used to ride his bike on CR 18, but he stopped due to the heavy traffic. He noted he is unsure about this request, but he is inclined to defer to the Staff Analysis. Mr. Norman explained he is okay with approval, if the petitioners receive all the needed approvals and submit a site plan the neighbors agree to. He suggested the request be tabled until the petitioners receive approval from all necessary departments. Mr. Miller stated the Board does not make a decision based on other departments approval, and Mr. Norman clarified their decision is made based only on the Zoning Ordinance. Mr. Hesser noted conditions can be added to approval that require actions from other departments. Attorney Kolbus clarified conditions can be added mandating the required permits be pulled, but the neighbors cannot be allowed to dictate the site plan. Mr. Hesser pointed out last month the Board required the neighbors' agree on the site plan due to a very specific concern, but he believes

the concerns raised for this request are more general. He stressed he does not believe this is the same situation, because that case was a clear screening issue. He continued saying the concerns with this request are more compliance issues that can be address with conditions. He continued saying the Board can also request a revised site plan be submitted, if anything specific is missing from the existing one. He added staff or the Board can then approve a revised site plan. He stressed his issues were the number of RVs and screening, but both have been addressed by the petitioner as part of the record. He mentioned a condition could be added requiring the top soil be removed before placing gravel, but that starts dictating the details. Mr. Atha suggested approval include a requirement that the property comply with all county codes. He then asked if approval should be for 25 units rather than 50. Mr. Hesser noted the petitioners stated they only needed approval for 20 RVs. Mr. Atha clarified the petitioners are required to come before the Board to increase the number of stored RVs. Mr. Miller suggested imposing a time limit, but Mr. Lyon stressed he does not believe that is fair due to the expense needed to begin operations. Mr. Atha stated he believes RVs will have difficulty pulling out onto CR 17, but he does not believe traffic will be greatly impacted by this operation. Mr. Miller mentioned he believes Highway will require a commercial entrance. Mr. Auvil added a passing blister may also be required, which could cost between \$150,000 and \$300,000. Mr. Hesser noted the petitioners could decide to not pursue this operation. Mr. Lyon stressed he believes better locations are available in the county for RV storage.

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

**Motion: Action:** Deny, **Moved by** Ron Norman, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for warehousing and storage of RVs be denied.

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

**Yes:** Ron Norman, Roger Miller, Denny Lyon.

**No:** Joe Atha, Randy Hesser.

14. The application of **Brubacher, Inc.** for a Use Variance to allow for stockpiling and crushing concrete/asphalt and for a Special Use for resource extraction on property located on the North side of CR 40, 1,040 ft. West of CR 13, common address of 24245 CR 40 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0913-2019*.

There were six neighboring property owners notified of this request.

Loren Sloat, Attorney from Nappanee, 102 Heritage Parkway, was present representing the petitioner. He explained the Board has two requests before them, and they agree with staff's recommendation for approval. He then addressed the Special Use for resource extraction, which he believes is a moot point. He continued saying the pit has been in operation for years, and it is close to being mined out. He mentioned the subject property is a good location for asphalt/concrete crushing, because the floor of the pit is 20' to 30' bellow the surrounding area, creating a natural barrier for noise. He added the petitioner would like to construct a new shop, and the existing shop that is close to the road and small will be torn down. Mr. Hesser asked if any resource extraction will take place, and Mr. Sloat responded not much. He kept saying some material may remain

around the edges, but he is unsure how close the pit is to the property line. He noted the petitioner is a contractor with his primary operation at the intersection of SR 119 & CR 40, so he may extract sand for a job. He explained the petitioner will only crush concrete seven days a month, and the crushed concrete/asphalt will be used for other jobs when needed. Mr. Hesser noted the history did not include approval of a gravel pit, and he questioned if the pit has been in operation for a long time. Mr. Sloat responded he believes the pit was there when he was a child. He reiterated they agree with the Staff Analysis and request this petition be approved. He added Mr. Brubacher is also present to answer any questions the Board may have. Mr. Atha asked how many days a month this site will be utilized. Mr. Hesser added the questionnaire does not list days or hours of operation. Mr. Sloat clarified work will only be done during daylight hours, Monday through Saturday. He continued saying they could set days/hours of operation, but the petitioner only works when needed. Mr. Hesser asked if lights will be installed on the property, and Mr. Sloat responded no. Mr. Atha then asked if the petitioner will crush concrete all day long, and Mr. Sloat responded no. He explained he will likely crush for several hours at a time, but he does not believe anyone will notice it is happening. He then pointed out a mining operation located on the adjoining northern parcel owned by Mr. Martin. Mr. Miller asked if the petitioner rents a crusher or if it will remain on the site permanently. Mr. Sloat responded the petitioner has his own crusher that will remain on the property, so he can use it whenever it is convenient. Mr. Hesser clarified the mentioned neighboring pit is north of the subject property, and Mr. Sloat added it is to the north and east. He then stated Christner Gravel was located across the road, but that property is now used for a dairy operation. He stressed this area has been a source of sand and gravel for many years, and it is pretty much mined out.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus stated the Special Use for resource extraction should remain part of the request in case the petitioner does extract some material. He suggested it not be dismissed. Mr. Hesser noted the Staff Report considers the Use Variance an ancillary use of the Special Use, so he believes the Special Use should be approved first. He continued saying he understands that Indiana State Law allows a gravel pit by right unless it is within ¼ mile of an urban area. He again suggested the order be reversed to act on the Special Use first, and he believes the second sentence of Finding #4 should be removed. He clarified no retail sales will take place on the property, because it is only for the petitioner's personal use. He added his questions regarding hours of operation and lighting were answered by Mr. Sloat.

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 resource extraction 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 12/16/19) and as represented in the Special Use application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

**Motion: Action:** Approve, **Moved by** Joe Atha, **Seconded by** Denny Lyon that this request for a Use Variance to allow for stockpiling and crushing concrete/asphalt be approved based on the findings and conclusions of the Board:

1. The request will not be injurious to the public health, safety, morals and general welfare of the community. Stockpiling and crushing of concrete and/or asphalt are uses associated with a sand/gravel pit.
2. The use and value of the area adjacent to the property will be not affected in a substantially adverse manner. This is a large 9.05-acre parcel in an agricultural area.
3. A need for the Use Variance does arise from a condition that is peculiar to the property involved. This property has a large deposit of gravel and sand.
4. Strict enforcement of the terms of the Zoning Ordinance would constitute an unnecessary hardship if applied to the property.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

The following condition was imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 12/16/19) and as represented in the Use Variance application.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

15. The application of *Tina Trost now known as Tina Stephens* for a 29 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for the construction of a carport 46 ft. from the centerline of the right-of-way on property located on the East side of CR 5, 130 ft. North of CR 1, common address of 51470 CR 5 in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0840-2019*.

There were seven neighboring property owners notified of this request.

No petitioner was present for this request.

Mr. Auvil submitted a letter from Mrs. Stephens [Attached to file as Staff Exhibit #1]. He then proceeded to read the letter regarding her disability and belief that the garage will be closer to her residence at its current location. Mr. Auvil pointed out this structure was red tagged for construction without a building permit, and he stressed, if the building had been constructed to meet the required setback, it would actually be closer to her residence than its current location. Mr. Hesser pointed out what appeared to be a building on the aerial, and he asked if it was the building in question. Mr. Auvil explained it is the remnant of a concrete pad, and the building was constructed just to the west of the pad closer to the road. Mr. Lyon clarified the accessory structure blocks the line of site. Mr. Norman reiterated the building is located between the driveway and concrete pad. Mr. Hesser asked if the site plan is accurate, and Mr. Auvil responded yes. Attorney

Kolbus clarified the building abuts the driveway, and it is located west and north of the concrete pad. Mr. Hesser mentioned the building is 46 ft. from the centerline of the right-of-way. Attorney Kolbus pointed out its approximate location on the aerial.

Mr. Auvil then submitted a few letters staff received in support of this request. The first he submitted was signed by seven neighbors, stating they do not object to this request or believe that the structure hinders their view of the street [Attached to file as Staff Exhibit #2]. The letter was signed by Chris & Ruth Roberts, 29252 CR 1; Anthony & Dawn Vanarsdale, 51501 CR 5; Gary Moore, 51515 CR 5; Michael White, 51455 CR 5; & Beth Ann Mann, 51469 CR 5. He then submitted a letter from Jeffery Moore, 51447 CR 3 that states the neighbors keep their property neat and clean [Attached to file as Staff Exhibit #3]. The letter goes on to state that he believes this building will allow the petitioner to safely remain on the subject property. He then submitted another letter from the petitioner, Tina Trost Stephens, 51470 CR 5, stating she does not believe this request is an issue or concern [Attached to file as Staff Exhibit #4]. Mr. Miller clarified staff's reason for recommending denial is that the building is too close to the road. Mr. Auvil added construction was started without a permit, and the subject property has a history of construction without permits. Attorney Kolbus noted the building could be moved to meet the required setbacks.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha stated he agrees with staff's recommendation for denial.

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

**Motion: Action: Deny, 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 29 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for the construction of a carport 46 ft. from the centerline of the right-of-way be denied.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

16. The application of *Adan Aranda* for a Special Use for a manufactured residence (double-wide) not on a permanent foundation on property located on the North side of Grover St., 950 ft. West of CR 11, North of CR 10 (Bristol St.), common address of 25173 Grover St. in Osolo Township, zoned B-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0830-2019*.

There were 27 neighboring property owners notified of this request.

Mr. Hesser asked why the Staff Analysis does not include any commitments. Mr. Auvil responded staff recommended the standard conditions for Mobile Home Special Uses. Mr. Hesser clarified a commitment is not typically imposed, and Attorney Kolbus explained the conditions are listed as required under the Zoning Ordinance.

Abraham Miranda, 25173 Grover St., Elkhart, was present for this request representing his father, Adan Miranda. Mr. Abraham Miranda explained they would like to place a single-wide on the property rather than a double-wide, because they have a potential buyer. He noted they no longer have a use for the property, since the old residence was removed. He continued saying it is currently a vacant piece of property. He reiterated they need approval to place a single-wide

rather than a double-wide, because the potential buyer owns a single-wide. Mr. Hesser asked if the request can be changed to a single-wide, and he stressed the petition specifically states it is for a double-wide. Mr. Atha noted a single-wide is smaller than a double-wide. Attorney Kolbus reiterated a single-wide is reducing the request since it is smaller than a double-wide. Mr. Atha asked if the single-wide will remain on wheels, and Mr. Abraham Miranda responded no. Mr. Adan Miranda stated he will place whatever the Board allows, and he stated he has already lost money on the property. He continued saying trees from the neighboring property frequently fall onto his lot, but he never says anything to him. He stressed it would benefit him to have something on his property. Mr. Lyon asked if the mobile home will belong to the petitioners, and Mr. Hesser asked if he plans to reside in the home. Mr. Adan Miranda responded yes and added he has three children. He continued saying either he or one of his children will live in the residence. Mr. Hesser reiterated Mr. Adan Miranda will live in the residence, and it will not be used as a rental. He then asked if the petitioner reviewed the Staff Report, and if he agrees to the recommended conditions. Mr. Abraham Miranda responded they have not seen it, and Mr. Atha then read the recommended conditions. Mr. Norman explained what is needed for skirting a mobile home. Mr. Adan Miranda stressed the new residence will look better than the one they removed. Mr. Hesser asked if other manufactured or mobile homes are located in the neighborhood, and Mr. Abraham Miranda responded yes. Attorney Kolbus stated the Board needs to clarify the actual plans for the property, because the petitioners first said approval for a single-wide was needed to sell the property. However, he continued the petitioner then stated he will live in it. He explained he believes the petitioner resides in the home on the neighboring property, and he doubts he will live on the subject property. Mr. Atha asked if the petitioner is selling the subject property. Mr. Adan Miranda stated someone tried to purchase it, but their mobile home was too old. He stressed he wants to place a nicer home on the property, and he has no intention to place a 60 year old home. Mr. Atha clarified someone else will live in the proposed residence. Mr. Adan Miranda responded he considered selling the property, but he did not due to the age of their mobile home. He again stressed he does not want to place an unattractive residence there, because he owns the neighboring property. Mr. Atha asked if the petitioner lives in the neighboring residence and if he plans to move to the subject property. Mr. Adan Miranda responded yes. Mr. Lyon then asked the age of the mobile home, and Mr. Adan Miranda stated he will place whatever the Board allows. Mr. Abraham Miranda reiterated his father will meet their requirements. Mr. Adan Miranda stressed he will do what the Board allows him, and he would like to place a home from the 2000s. He went on to say the mobile home will be newer than the previous one. Mr. Hesser stated the petitioner implied that they had a buyer lined up with a mobile home to place. Mr. Adan Miranda explained someone tried to purchase the land from him, but their mobile home was too old. Mr. Norman questioned if the old mobile home will be removed, and Mr. Hesser responded no mobile home is currently located on the property. Mr. Abraham Miranda clarified 25173 Grover St. is vacant land. Mr. Atha reiterated the buyer previously mentioned is no longer involved with this request. Mr. Miller asked if approval or denial is dependent on the petitioner living on the property. Mr. Lyon responded it matters in his opinion, but none of the rules mandates that. Mr. Miller clarified the petitioner can place a mobile home on the subject property and then sell it, if the Board approves this request.

Mr. Auvil came on and submitted three letters in remonstrance. The first letter was from Robert & Nancy Molnar, 1825 Osolo Rd. *[Attached to file as Staff Exhibit #1]*, and the next was from William

& Sally Stephens, 54016 Wilson St. *[Attached to file as Staff Exhibit #2]*. The last letter he submitted was from Mary Ann & Thomas Surface, 25218 California Ct. *[Attached to file as Staff Exhibit #3]*. He noted two of the three people who sent letters are present.

Mary Ann Surface, 25218 California Ct., the owner of the property at 25210 Grover St., catty-corner to the subject property, came on opposed to this request. She went on to read her letter previously submitted. She stressed for years their neighborhood has been ridiculed/looked down upon, and they strive to change that. She request the Board seriously consider the outcome of this request, because the Prairie Creek Run Neighborhood Committee cannot change anything without the Board's help. She continued saying the County has planned for years to revitalize this area into something the community can be proud of. She stressed they need the Board's help, and continuing to bring in sub-standard homes will hinder their progress. She added Mr. Mock, with Elkhart County Planning & Development is working with them to better police the area along with the Sherriff's Department. She noted the community members have put in a lot of work, and they would appreciate the Board's help. Mr. Hesser clarified their group is a neighborhood association. Mrs. Surface added Lacasa, Dovetail Projects, and the Elkhart County Government is also involved. Mr. Hesser asked if the subdivision has any restrictive covenants, and she responded no. He then pointed out the property where they believe the petitioner resides on the aerial. He asked where the abandoned car mentioned in her letter is parked, and she pointed it out on the aerial. She stressed it is parked almost on the road, where it has removed for several years. She continued saying no improvements have been made on the property besides cleaning up the neighbor's tree that fell. She stressed the subject property is an eyesore. Attorney Kolbus mentioned her letter was written in regards to the request for a double-wide, and he asked if a double-wide of single-wide would be more offensive to their neighborhood plan. Mrs. Surface responded the property is very small, and it was not large enough for its own septic tank when the old residence was constructed. She went on to say they connected the old residence to the same septic tank as the house next door. She stated she would be surprised if the property is large enough for its own well and septic tank. Mr. Miller noted one of the conditions would require the property comply with all Health Department regulations. Mr. Atha stressed the petitioner cannot construct a residence on the property, if they cannot comply with that condition. Mrs. Surface pointed out people in the neighborhood are frequently uncompliant and get away with it. She also asked what year mobile home they plan to purchase, and if it will enhance the neighborhood. Mr. Atha noted one of the conditions is that the request be approved for a period of three years with a one year review. Mrs. Surface then asked how many times the county has required a mobile home be removed due to noncompliance. She went on the say they tend to stay on properties for long periods of time as they progressively worsen. Mr. Miller mentioned the Board denied a request for an existing mobile home park last month. Mrs. Surface asked if the mentioned park was in their area, and Mr. Miller responded it was within the county. Mr. Lyon noted it was near Stone Lake. Mr. Miller stated the property is large enough to place a mobile home, but the imposed conditions must be met. He continued saying, if the conditions are not met, staff can make them bring the property into compliance. He explained the property will be regulated more with board approval than it would be without it. Mr. Norman pointed out a Mobile Home Special Use requires renewal every few years. Mr. Hesser stated staff will verify compliance one year after approval and then renewal is required every three years. Mrs. Surface responded she understands the process, but several mobile homes in their neighborhood do not enhance the area. Mr. Norman

pointed out some older, dilapidated, WWII era bungalows are also in the area. He continued saying he is familiar with the neighborhood. He mentioned they currently are not connected to sewer, because they refused to be annexed into the City of Elkhart. He noted the neighborhood is surrounded by infrastructure, but they do not have access to it. Mr. Miller added a letter from Natasha Kauffman, Redevelopment Coordinator, was included in the Board's packets. He pointed out the letter states, "of the identified 330 homes in this neighborhood over 60 homes are identified as manufactured homes with the remaining 250 traditionally built homes considered post-war." He stressed a mobile home is not out of character for the area. Mrs. Surface stressed it would depend on the type and quality of home being placed. Mr. Lyon noted the age of the mobile home was one of the major concerns at the Hearing Officer Meeting. Mr. Miller asked if the Board can require the mobile home be a certain age. Mrs. Kratzer pointed out the Zoning Ordinance mandates all mobile homes be newer than 1981. Mr. Norman mentioned only the foundation on manufactured/mobile homes can be inspected by the county. Mr. Miller added the lack of inspections was an issue with a previous request, because the county cannot make the homes themselves compliant. Mr. Norman stressed a mobile home from 1981 is almost 40 years old, and he would be surprised if one could withstand transport to a new location without falling apart. Mrs. Surface stressed they cannot change what is already in the neighborhood, but their plan is to improve what is being brought in. She continued saying they do not want new homes to be the same or worse quality than what is existing. She added the time spent by all of the entities involved to improve the neighborhood is unnecessary, if nothing is going to change. She clarified if the Board allows a mobile home, they hope the type of trailer to be installed is known, and the Board should take into consideration, if it is appropriate and an improvement to the neighborhood.

Daniela Panetta, 58287 Valley View Dr., Elkhart, was present for this request as the Community Building Specialist with Lacasa came on against this request and stated she is working with the Prairie Creek Run Neighborhood Association/Committee. Mrs. Panetta then submitted a letter for the record *[Attached to file as Remonstrator Exhibit #1]*. She stated she agrees with Mrs. Surface. She explained she has been contracted with Andrea Milne of Dovetail Projects to work on a Redevelopment Plan with the residents to bring together cohesiveness and pride in this area. She went on to say her job is specifically to facilitate conversations, and their plan is looking into ways to encourage home ownership of quality housing. She noted the plan is not completed yet, but they want to ensure this area is going forward rather than backwards. Attorney Kolbus again asked if a single-wide or double-wide would be more offensive to their Redevelopment Plan. Mrs. Panetta responded the main issue is maintenance of the homes, and several trailers in the area have multiple code violations. She stressed the neighbors do not want a continuation of what is currently in the neighborhood. Mr. Atha pointed out staff's recommended conditions require the premises be kept clear of trash, and he asked if that is part of their plan. Mrs. Panetta responded she cannot speak to what will be included in the plan, because Andrea Milne is the one who will be compiling the plan as the Urban Planner. She explained her focus is to gather the residents' input for this plan, because they want their neighborhood to improve. She stated she wanted Mrs. Surface to speak first, because her word as a resident in the area speaks higher than her own.

Sally Stephens, 54016 Wilson St. came on opposed to this request and stated she agrees with what Mrs. Surface and Mrs. Panetta said. She stressed they have lived in their residence for 57 years, and a lot of mobile homes in that time were brought in absolutely trashed. She continued saying some of them are still in the area, and they no longer want the cycle to continue. She

stressed she does not want to live in the city dump, but she feels that way living here. She explained many people do not utilize trash pick-up, and instead burn their trash at night, which the neighbors then have to smell. She stated they want this area cleaned up. She then asked the age of the mobile home they plan to move onto the subject property. She stressed they should not be allowed to place a mobile home that is 12 or 15 years old. She voiced another concern that the mobile home should be properly secured, and they cannot just set it down on the property and leave. She request the Board visit the neighborhood and see the trash. She again stressed efforts are being made to clean-up the area, and she does not believe the Board members would want to live there.

Adan & Abraham Miranda came back on to address the concerns. Mr. Adan Miranda asked what the Board wants him to do with the property. Mr. Abraham Miranda stressed the entire neighborhood is an eyesore, and he believes a nicer mobile home will be better than a vacant lot. Mr. Adan Miranda reiterated the neighborhood has not changed since he moved there 40 years ago. Mr. Miller clarified the petitioner is happy with the condition of the neighborhood and do not believe change is needed. He stressed he would prefer they want to improve the neighborhood and keep it clean, but instead they appear to be happy with the current condition of the neighborhood. He continued saying the petitioner should promise to place a mobile home that is newer than 1981, if they would like approval of their request. He stated he does not believe the Board will deny this request, but they need reassurance from the petitioner that the property will be cleaned up. Mr. Adan Miranda mentioned other properties in the neighborhood are in poor condition. Mr. Miller stressed the Board is not acting on any other properties, and this request only references the subject property. He went on to say the Board and neighbors want the property cleaned up, and staff will require the mobile home be removed, if it is not cleaned up by the one year review. Mr. Adan Miranda stated he will clean up the property. Mr. Norman clarified the petitioner lives next door to the subject property, and he asked the condition of that property. He also asked how long he has lived in that residence, and Mr. Adan Miranda responded he does not live on the neighboring property. He went on to say he does not currently live in this area. Mr. Norman then asked if he owns the neighboring property, and Mr. Adan Miranda responded his wife owns it. Mr. Norman went on to ask if it is a rental, and Mr. Adan Miranda responded yes. He added he rents it to one of his friends. He asked what he is supposed to do without a house on the property, and he stressed it looks worse without a residence. Mr. Norman asked if the petitioner is familiar with the Prairie Creek Run project, and Mr. Adan Miranda responded no. He noted he does not understand them, and he is just looking to place a residence the Board will like. He stressed he will remove the residence within one week, if the Board does not like it. He added he does not know what the Board wants, but it will appear nicer than an empty lot. Mr. Auvil questioned the owner of the mentioned vehicle currently on the subject property. Mr. Adan Miranda stated he will call the police to have it removed right after the meeting, because it is not his. Mr. Norman clarified the vehicle was abandoned. Mr. Adan Miranda responded he does not know who left it there, but he does not own it. He went on to say he will call someone to take it away, but he is not sure who to call. Mr. Atha asked how long the abandoned car has been on the property, and he responded maybe a year. Mr. Atha questioned why it has not been removed from the property. Mr. Abraham Miranda responded he had no use for the property, and Mr. Adan Miranda added he does not want to lose any more money. He stressed he did not tear down the old house to leave a vacant lot.

The public hearing was closed at this time.

Mr. Miller stated he does not believe the Board can deny a mobile home on this property, but he is also unsure, if they can required the mobile home be newer than the restriction. Attorney Kolbus pointed out the request is to allow a double-wide not on a permanent foundation. Mr. Norman responded one of the conditions requires recommended the mobile home be properly stabilized, and he would assume that includes piers, cinderblocks, and tie-down straps. He added an insulated skirt will also be required around it to keep the utilities from freezing in the wintertime. Attorney Kolbus clarified proper stabilization and skirting is addressed with the proposed conditions. Mr. Hesser noted he understands a double-wide or single-wide can be installed without the driveway location indicated or knowing what exactly will be placed, if this request is approved. He continued saying he understands the neighbors' concerns, but he does not believe they should allowed to stop someone from placing a mobile home on this property. However, he stressed the Board does not have enough details from the petitioner. He added he believes a double-wide or single-wide could be properly placed on the lot, but they need to know what will be placed there. Mr. Norman pointed out this neighborhood is located in the county but surrounded by the City of Elkhart, and he noted the City requires a concrete driveway. He mentioned the site plan does not include driveway or storage details, but a recommended condition prohibits outside storage. He went on to say an unlicensed vehicle is not permitted on the property. Mr. Miller questioned room for a septic system on the subject property. Mr. Hesser pointed out the subject property is the same size as other residential lots in the area. Mr. Norman stated the area needed for a septic will be determined by the corresponding county department, and Attorney Kolbus verified the Environmental Health Department will make that decision. Mr. Atha clarified if the property does not comply with their standards, a home cannot be placed there. Mr. Norman stressed the lot must be large enough for a tank and field system. Mr. Atha added the residence cannot be tied into the neighboring septic system. Mr. Miller noted the property will be reviewed after one year. Attorney Kolbus explained if staff finds that the property does not meet the conditions at that time, then it will be brought back before the Board to be revoked. Mr. Atha questioned the required setback from the side property line, and Mr. Auvil responded 10 ft. Mr. Hesser stressed he does not have enough information to approve this request, and he needs to see a revised site plan showing the exact home to be placed on the property and the septic location. He stated the Board could deny this request, but the petitioner would not be allowed to reapply for six months. He continued saying he does not believe the Board should deny this request, if the petitioner can provide a detailed plan for the property. He suggested Mr. Adan Miranda submit a detailed site plan showing exactly what residence will be placed on the property, the driveway, and septic system. He went on to say the petitioner will need time to revise the site plan, and staff can review it once it is completed. He explained the request can then come back before the Board, and he suggested tabling it until the detailed site plan is submitted. Mr. Norman asked if it can be heard at next month's meeting. Mr. Hesser responded he believes the deadline already passed for next month's meeting. Attorney Kolbus asked the deadline for the February BZA Hearing, and Mr. Auvil responded it was Monday, January 13<sup>th</sup>. Mr. Hesser pointed out the petitioner will need to pay the fee again, if required to reapply. Mr. Miller stressed approval of this request will allow staff more control over cleaning up the subject property. He continued saying he does not believe the petitioner will clean up the property, because an abandoned car has sat there for years. He mentioned approval would require the property meet the imposed conditions, and the mobile home will need to be removed, if it is not cleaned up within one year. Mr. Atha agreed following the

proposed conditions would improve the property. Mr. Miller stressed the property should be cleaned up within a year, and Mr. Atha added the neighborhood plan should be established at that point. Mr. Norman pointed out the plan is currently 7 months into an expected 24 months, and the Prairie Creek Run plan is just getting started. He mentioned he understands their mission, and he has been part of discussions regarding it. He continued saying their proposal is a great idea, and a good thing for the community. He noted he would like to see the condition of the neighboring property that the petitioner also owns. Mr. Adan Miranda responded the property has an existing septic, so he does not need to install one. Mr. Norman clarified the existing septic has been inspected and approved. Mr. Hesser request the neighbors be re-notified, but he does not believe republishing the legal ads is necessary. Mr. Miller stated he would like to impose as many regulations as possible, but he does not believe the Board has ample reason to deny this request. He continued saying he would like to see a newer mobile home installed on the property than what the Zoning Ordinance mandates, but he is unsure if that is allowed. Mr. Hesser stressed the Board should require a detailed site plan. Mr. Atha pointed out he is relying on the County Health Department to ensure a proper septic system will fit on the property. He went on to say the Board can require a proper septic system be installed, but they cannot regulate where it is placed. Mr. Norman added he believes it is becoming more difficult to obtain a septic permit depending on the property's proximity to city utilities. He explained the City of Elkhart wanted to annex this neighborhood, but the residents were opposed to it. Mr. Atha stated placing a mobile home on this property is an appropriate use, but it must be compliant with the Health Department.

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 manufactured residence (double-wide) not on a permanent foundation be tabled indefinitely to allow the petitioner to submit a detailed site plan showing the driveway, exact location/dimensions of the proposed mobile home or double-wide, and septic/utilities location.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

Mr. Hesser stated the neighbors need to be re-notified by letter when this request comes back before the Board.

**\*\*For the record, Mr. Auvil reported only hearing from two parties involved in the following Show Cause Hearings, which was in regards to Items #17 & #19.  
No one was present in the audience \*\***

17. The application of **Ralph Ortiz** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the Northeast corner of Treva St. & Darlene St., 1,375 ft. West of CR 5, common address of 30079 Treva St. in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil stated Mr. Ortiz submitted his recorded commitment earlier at the meeting. He explained it was recorded several months ago but was not submitted to staff. He request this matter be dismissed from the Show Cause Hearing.

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

**Motion: Action:** Dismiss, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be dismissed.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

18. The application of **Eric Roy Brown** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the North side of Kimberly Dr., 195 ft. East of CR 17, South of CR 130, common address of 21963 Kimberly Dr. in Elkhart Township, zoned A-1, came on to be heard.

As noted previously, the property owners were sent notice via certified mail, and staff did not receive a response. Mr. Auvil request this matter be rescinded, because the commitment form was never completed.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

19. The application of **Big M, Inc.** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the East side of SR 13, 3,000 ft. South of SR 120, in York Township, zoned A-1, came on to be heard.

Mr. Auvil noted the subject property changed hands, and the new owner completed the recorded commitment. He request this matter be dismissed from the Show Cause Hearing.

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

**Motion: Action:** Dismiss, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be dismissed.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

20. The application of **Robert D. West, Jr.** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the North side of Old US 20, 1,300 ft. East of CR 15, common address of 22775 Old US 20 in Concord Township, zoned A-1, came on to be heard.

As noted previously, the property owners were sent notice via certified mail, and staff did not receive a response. Mr. Auvil request this matter be rescinded, because the commitment form was never completed.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

21. The application of **Beau Bradley Compton** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the East side of Shady Ln., 200 ft. South of Sturdy Oak Dr., 2,300 ft. West of Cassopolis St. (SR 19), common address of 51020 Shady Ln. in Osolo Township, zoned R-1, came on to be heard.

As noted previously, the property owners were sent notice via certified mail, and staff did not receive a response. Mr. Auvil request this matter be rescinded, because the commitment form was never completed.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

22. The application of **Matthew Miller** for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the East side of CR 33, 1,150 ft. South of US 33, common address of 68548 CR 33 in Benton Township, zoned A-1, came on to be heard.

As noted previously, the property owners were sent notice via certified mail, and staff did not receive a response. Mr. Auvil request this matter be rescinded, because the commitment form was never completed.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that this request for a requested rescission of a Special Use for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be approved.

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

**Yes:** Joe Atha, Ron Norman, Roger Miller, Denny Lyon, Randy Hesser.

23. The staff item for Avery L. Aragona & Samuel J. Burns (SUP-0414-2019) was previously heard as item #9 on page 5.

24. The staff item for Mryon L. Yoder & Karla Jo Yoder, Husband & Wife (DV-0838-2019) was previously heard as item #10 on page 5.

25. The staff item for Dana Bontrager & Lori Bontrager (SUP-0751-2018) was previously heard as item #11 on page 5.

26. The meeting was adjourned at 10:50 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