

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 18<sup>th</sup> DAY OF FEBRUARY 2021 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: Chris Godlewski, Plan Director; Jason Auvil, Zoning Administrator; Mae Kratzer, Planner; Danny Dean, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Joe Atha, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

2. A motion was made and seconded (*Miller/Atha*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21<sup>st</sup> day of January 2021 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Atha/Miller*) 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 **J. Antonio Bernal Rodriguez & Rosa A. Caldera Bernal, Husband & Wife** for a Special Use for a home workshop/business for an online marketplace (customer pick-up) on property located on the northeast corner of Virginia Dr. & Gregory Dr., 1,800 ft. west of Meadow Glen Dr., north of Old US 33, common address of 56946 Virginia Dr. in Baugo Township, zoned R-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0006-2021*.

There were 30 neighboring property owners notified of this request.

Judy Bernal, 56946 Virginia Dr., was present for this request. She explained she posts items for sale on Facebook Marketplace that customers pick up at her residence. Mr. Campanello clarified all sales take place online and pickups on the subject property. Mrs. Bernal explained she was meeting customers at gas stations and parking lots, but her daughter now at home for eLearning. She stressed it works better for customers to pick up their items at her property. Mr. Campanello asked how many vehicles come to the property in a day, and she responded one to two. Mr. Campanello asked if trucks make deliveries to her property, and she responded no. She continued saying she does use trucks to pick up her merchandise. Mr. Campanello then questioned what merchandise she sells. Mrs. Bernal responded she sells back splashes, comforters, children's items, toys, curtains, etc. Mr. Miller asked if she plans to resume pickups at gas stations and stores once eLearning has stopped. Mrs. Bernal responded yes, because she does not want people to know where she lives.

Stacie Bates, 56955 Virginia Dr., was present opposed to this request and submitted a petition in remonstrance signed by the surrounding neighbors [*Attached to file as Remonstrator Exhibit #1*]. She stated their subdivision has no sidewalks, so many children play on the street. She went on to say she almost hit the petitioner's youngest daughter and son while driving around the curve. She then pointed out the petitioners' property and the curve in the road. She stressed she has to veer around

their cars parked along the curve, and she has almost hit the school bus twice while veering around them. She added her biggest concern is for the children playing in this neighborhood. Mr. Campanello asked if only the petitioners' children play in the street, and Mrs. Bates responded all of the neighborhood children play there. She went on to say personally her only close encounters have been with the petitioners' children. Mrs. Bates pointed out a shed and screened in porch on the aerial that the petitioner packs with merchandise in addition to their attached garage. She stressed they sell large amounts of merchandise. She mentioned theft has increased in the area, because large amounts of merchandise is stored on the property. She continued saying the petitioners installed floodlights and cameras around the property. She noted a vehicle was also sold from the property. Mrs. Bates then pointed out a trailer and two vehicles parked in the yard in addition to their personal vehicles. She stated a commercial refrigerator sat outside the garage covered in cardboard for 1 ½ years, and a scooter has sat outside for over 2 years. She stressed the petitioners can rent out a booth at a retail shop or store front. She mentioned they unload trucks of merchandise at all hours, because the husband purchases pallets of it. She stated she believes the petitioners do not want to pay rent for a store front. She noted she sees her daughter get picked up by the bus every morning. She stressed the neighbors should not have to suffer from this operation, simply because the petitioners do not want to rent a store off-site. She went on to say all of the neighbors are tired of the traffic and junk. She added the petitioners burn styrofoam in their fire pit, and the neighbors have to smell it burning. Mrs. Bates noted she has counted up to eight personal vehicles on the property, but they typically have around four. She stressed an influx of personal vehicles are already parked on the property without adding customers. She stated they purchased their residence in a quiet area, and cars creeping through the neighborhood is unsettling to the neighbors. She reiterated their major concerns include neighborhood children's safety, an increase in crime, and disruption of their peace and quiet. Mr. Hesser asked how many customers come to the property in a day. Mrs. Bates responded she is unsure how many per day, since she works. However, she explained the entire corner is consistently filled with vehicles during her garage sales. She believes more than one or two customers come to the property in a day, and she would estimate four or five a day. She added pick-up trucks often back into the driveway to load items. She noted the petitioner's husband transports vehicles and brings home pallets of merchandise, and his box trucks block visibility around the curve when parked in their driveway. Mr. Hesser asked if restrictive covenants exist in the subdivision, and Mrs. Bates responded yes. She then submitted the documents amending them into the Home Owners Association and restrictive covenants *[Attached to file as Remonstrator Exhibit #2]*.

Danielle Miller, 56937 Virginia Dr., was also present opposed to this request and pointed out her residence across the street from the subject property's back yard. She stated her issue with the request is that they unload trucks in the middle of the night causing her dogs to bark. She went on to say three people unloaded a budget box truck at the subject property after midnight causing her ring door bell and dogs to making noises. She noted the unloading took place at 12:12 a.m., Thursday morning, February 4, 2021. She added styrofoam and trash are stacked behind the shed on the southwest corner of the property, and a trampoline in the back yard is full of excess trash bags. She stressed the petitioner does not have proper trash receptacles to accommodate all of the waste.

Mrs. Bernal came back on and stated she contains the extra garbage on the trampoline to prevent it from blowing away. She continued saying she uses the trucks that bring pallets to the

property to take the trash away. She stressed she disposed of the garbage she accumulated over the past few months last week. She explained she does not have a large truck to regularly dispose of garbage, so she bags it and secures it to keep it from blowing away. She went on to say she tries to put the garbage where it is not a nuisance to anyone, like in the backyard and beside the shed. She added garbage stays on the property for a while until she rents a truck. Mrs. Bernal then stated she cannot keep her children from playing outside, and all of the neighborhood children play near the street. Mr. Campanello mentioned this operation appears to be growing, since she now needs box trucks for deliveries. He continued saying the operation causes a large amount of debris, and he asked when she plans to rent a store front or retail booth. Mrs. Bernal responded she has considered moving to a retail location. However, she continued the prices are so high; she cannot afford to rent a retail location at this time. She added she has told her neighbors that she is looking for a retail location, but Heart City does not have any space available within her budget. She reiterated she has a budget that she cannot exceed. She stressed she has contacted several people regarding a retail location. She mentioned she needs a location close to her residence, because her child is doing eLearning this year. She went on to say her daughter is not attending Jimtown in person, but she gets picked up for Hawthorn. Mr. Hesser asked how often she holds garage sales. Mrs. Bernal responded she was informed that she can only have four, one-day or two, two-day sales. She went on to say she had a few 2-day long sales last year before she was aware of the restrictions, but other neighbors also hold garage sales. Mr. Norman asked if she is familiar with the covenants/restrictions for the subdivision, and she responded no. Mr. Norman noted most vehicles in the neighborhood are parked on driveways, but vehicles on the subject property are parked in the yard. Mrs. Bernal explained two vehicles are parked in the yard that she does not frequently use, because one of the neighbors mentioned they did not want them sitting on the street. She stressed other neighbors also have cars parked outside. Mr. Norman responded all other vehicles in the neighborhood appear to be parked on driveways. Mrs. Bernal stated she was not aware that parking vehicles in the grass was an issue, and she would prefer to have them parked in the yard than in the street. She went on to say she could move the vehicles onto the street if necessary, since both vehicles are operable. Mr. Atha questioned burning trash. Mrs. Bernal responded she does not burn styrofoam, but she does burn cardboard. She added she stores styrofoam in the trampoline, and recycles some of the cardboard. She explained she does not have a lot of room to store waste, and her garage is full of cardboard boxes to be recycled.

The public hearing was closed at this time.

Mr. Miller stated this operation is much more extensive than he originally believed. He went on to say the business is growing, and this is not the proper location for an operation of this size. He explained it appears they purchase large pallets from stores to resell. Mr. Hesser agreed this operation appears to be too intense for a home workshop/business.

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

**Motion: Action: Deny, Moved by Tony Campanello, Seconded by Roger Miller** that this request for a Special Use for a home workshop/business for an online marketplace (customer pick-up) be denied based on the findings and conclusions of the board:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Zoning Ordinance. Special Uses for home workshop/businesses are allowed in an R-1 zone.

2. The Special Use will cause substantial and permanent injury to the appropriate use of neighboring property. The hours of operation as presented in the hearing and intensity of the business will negatively impact the surrounding properties.
3. The Special Use will substantially serve the public convenience and welfare by providing an online marketplace with local pickup.

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

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

5. The application of *David C. Miller* for a Special Use for a campground (20 units) on property located on the east side of CR 9, 940 ft. north of CR 24, in Concord Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0028-2021*.

There were 21 neighboring property owners notified of this request.

Mr. Hesser asked for those in favor and two hands were raised, he then asked for those in remonstrance and several hands were raised in the audience.

David Miller and Stacy Kidder, 59285 Fairwind Dr., Elkhart, were present for this request. She noted their property abuts the subject property. She explained they would like to operate a 20 unit, luxury campground without changing layout of the property. She continued saying they plan to only cut down a few trees by the driveway for safety reasons. She stressed they want to work with the property to create something beautiful, natural, and peaceful. Mr. Campanello questioned the location of their residence, and Mr. David Miller pointed it out on the aerial. Mr. Roger Miller clarified the campground will not be accessed through their residential property. He then asked the number of people allowed per camp site, and Mrs. Kidder responded two. Mr. Atha asked what activities will take place on the campground. Mrs. Kidder responded they will install luxury, canvas tents with a king size bed in each, and she noted this campground will be different than an average one. She stressed people spend a lot of money to stay at a luxury campground, and they have seen success with similar venues in other locations. Mr. Roger Miller clarified this operation will be more of a retreat than campground. Mrs. Kidder responded they may offer a yoga class, acoustic guitarist, or cooking class, all peaceful and quiet activities. She went on to say they also plan to have flower fields with u-pick flowers for the guests. She added they may construct a greenhouse where guests could participate in growing and cultivating plants. Mr. Hesser questioned their plans for water and sanitation. Mrs. Kidder responded the property is 27 acres, so they a septic system and well should fit. She explained each tent site will have its own toilet and shower. Mr. Campanello asked about security for the campers. Mrs. Kidder stated they plan to move out of their existing residence once the campground is established, but they would have a staff member live in that residence to be available 24/7 and oversee the campground. She went on to say until they move from the property they will oversee the campground. Mr. Atha asked what rules they will have in place to keep people from throwing a party on the property and if an age requirement will be imposed to rent a campsite. Mrs. Kidder responded Mr. David Miller and her have both been in the rental industry for decades, and their other properties have a minimum booking age of 25. She continued saying they anticipate a similar age minimum for this site. Mr. Roger Miller noted a gazebo and pavilion appear on the site plan, and he clarified no other

structures will be constructed. He then asked how long they anticipate guests to stay on the property. Mrs. Kidder responded they will impose a three night minimum.

Mr. Auvil came on and submitted a packet of letters/affidavits received in remonstrance [Attached to file as Staff Exhibit #1]. The letters/affidavits were from the following: Raymond J. Kraucunas, 59269 CR 9 and John & Rita Harnish, 59415 CR 9. Mr. Roger Miller asked the reasons listed for remonstrance, and Mr. Auvil responded increased traffic, negative effects on property value, noise, potential nuisance, etc.

Lora Hoff, 25741 CR 24, was present in remonstrance and pointed out her property will back up to the proposed campground. She explained she would like to speak on the feasibility of the proposed operation, and she added she is not opposed to entrepreneurship. She went on to say her former neighbor, Bob Kurtz, sold the subject property to David Miller. She added it was difficult to sell the property, because it is wet and marshy. She mentioned she spoke to Mr. Kurtz's daughter about the sale, and she informed her that David Miller purchased the property as a buffer. She stressed the Auditor stated the subject property was not buildable when it was sold. Mrs. Hoff stated she obtained a copy of the application and questionnaire for the campground, and she has some comments. She then submitted a document about the feasibility of the proposed campground that shows existing campground in the area [Attached to file as Remonstrator Exhibit #1]. She added the submitted document lists each campground and their amenities including; laundry facilities, camp stores, miniature golf courses, dances, fishing ponds, swimming pools, and beaches. Mr. Campanello request she focus on the subject property. She noted the existing campgrounds are successful, and she clarified the location of the proposed campground is between CR 22 & CR 24. She then read question #2 in the questionnaire and questioned how a 20-site commercial campground will not have activities or produce noises. She went on to say the questionnaire also states 2-4 people will be allowed per campsite. She stressed she believes the lack of planned activities promotes rowdiness and drinking around large campfires, which could last late into the night. She pointed out an activity center on CR 26 already causes a large amount of noise during the summer. Mrs. Hoff noted a diagram of the proposed campground was attached to the application, but it was not to scale. She continued saying the site plan shows three flower fields, but they do not surround the tents. She stated flowers are lovely, but she questioned how many hours will be spent enjoying them. She mentioned flower beds and activities out in the community are the only points listed to draw in visitors. She proceeded to read the answer to question #4 and stressed every campground has campfires. She went on to say campfires produce smoke, heat, and odors, and campfires close to their homes is dangerous. Mr. Campanello asked if the neighboring property owners ever have campfires, and she responded not very often. She went on to say one of the neighbor's is severely asthmatic, so she has not used her campfire site for 4 or 5 years. Mr. Campanello stated the neighbors are able to have a campfire. Mrs. Hoff explained she does not know the county's rules for fires, but most of the neighbors do not burn leaves. She then went on to address question #5, and she stressed wooded buffers do not deter bikers, hikers, of children from entering the neighbors' backyards. She added the existing fencing is minimal, and she believes trespassing from the campground into their backyards is likely to occur. She mentioned trespassing has been known to happen around the city parks, and the potential danger is alarming to the neighboring residences. She proceeded to read question #6, and she noted the site plan submitted with the request did not show restroom, shower, septic, or well locations. She stressed converting a swampy, low area into a campground is likely to create water access and

health issues. She added campers typically seek out high ground to stake their tents to avoid puddles and dampness, but the subject property is low. She continued saying the water table in the area has been examined and tested multiple times due to their proximity to the landfill. She stressed the impact on the water table from the proposed campground will be significant. She then addressed question #7, which describes the proposed buildings. She went on to say the proposed pavilion will be close to her property according to the site plan. She pointed out no building is shown for restroom/shower facilities, a camp office, or a shelter in case of dangerous weather. She added no building is indicated for the sale of retail items, but the questionnaire states retail items will be sold. She stressed the omissions are worrisome, and she questioned if the campground venture has been thoroughly considered. She went on to read question #8, and she noted no other campground in the area prohibits pets. She stated she does not believe prohibiting pets will attract campers, and she again asked if this operation is feasible. Mrs. Hoff pointed out the application notes 40 parking spaces and 20 campsites with 2-4 visitors each. She added they also plan to have retail sales of local campground apparel/souvenirs, but no pickups or deliveries to the property are mentioned in question #9. She questioned the lack of supplies being delivered. She stressed pickup and deliveries will cause traffic concerns and impact parking. She reiterated she believes simple campground operations were omitted in the questionnaire. Mrs. Hoff then read the optional comments on the questionnaire, which she has heard is the mission statement for the campground. However, she continued she believes this business venture lacks compatibility for success when compared to established campgrounds in the area. She went on to say the proposed campground appears to lack the amenities that have made other area campgrounds successful.

Hugh Johnson, 25811 CR 24, came on in remonstrance. Mr. Johnson explained a large group of firearm enthusiasts live in this area and practice on their property. He stressed they could be shooting on property adjacent to a campground in the future with campers and children who may not stay on the campground property. He stated he is concerned about the possible situation as a homeowner. Mr. Roger Miller asked if there is a lot of noise in the area. Mr. Johnson responded no, but guns are occasionally fired. He added the Elkhart County training range is located approximately .5 miles from his property. He stressed the potential issue is a safety issue not a noise issue. Mr. Campanello stated responsible gun enthusiasts practice gun safety and shoot into something that can stop a bullet. Mr. Johnson agreed the neighbors are very responsible people. He questioned how children will be kept from leaving the campground and entering his backyard.

Lisa Arendt, 25650 CR 24, was also present against this request and pointed out her residence on the aerial. She stated property adjacent to her was purchased by someone who does not live in the area. She went on to say they cleared it for cattle and then left the property. She explained she lives next door and can tell the property is not maintained. She questioned if the petitioners currently live on property adjoining the subject property. She stressed her concern is that the petitioners will start the campground and then leave as the previously mentioned situation. She noted an employee living in the petitioners' current residence would lead to a renter mentality rather than a homeowner mentality. She pointed out properties in the area are generally owner-occupied not rentals. Mrs. Arendt mentioned they do have campfires in the area, since they live in the county. However, she continued they do not have 40 fires at any given time.

Angie Yoder, 59155 Fairwind Dr., was present opposed to this request and pointed out her property on the aerial. She stated it was previously mentioned that the water table is high in this area, and

two landfills are located nearby. She went on to say she came across some information that a major modification has been passed to the Elkhart County Landfill, which is being reviewed by IDEM. She stressed the landfill will be one of the tallest in the state, if everything is approved, at a finished grade elevation of 1,025 ft. She noted the Earthmover Landfill on CR 26 has an elevation of approximately 980 ft. She stated their water is an issue due to their proximity to the landfills, and her property does flood often. She then pointed out the general direction in which water flows on the aerial, which causes their back yard to flood a significant amount. She added the owners of the cattle field previously mentioned have tried to push the water in a particular direction to prevent flooding, but it has not worked during the rainy season. Mrs. Yoder stressed adding a septic system for 20-40 people will cause a significant change to their water system in the area. She added the petitioners' mentioned they plan to move away in the future and have a staff member reside in their residence, which is in her neighborhood. She questioned if their residential property will need to be included in the Special Use at some point. She went on to say she assumes deliveries of merchandise needed for the campground will be made at the residential property. She noted their neighborhood only has one entrance, and deliveries will add a significant amount of traffic.

John Nelson, 25572 CR 22, was present in remonstrance and stated the water level is high in this area. He then asked if an environmental impact study has been completed for backfilling the subject property with dirt, and how it will affect the neighboring properties.

Terry Kraucunas, 59269 CR 9, was present against this request and stated she provided the affidavits received by staff. Mrs. Kraucunas stated she lives directly across the street from the proposed development and pointed out her property and pond on the aerial, which she actively works to maintain. She explained the subject property currently only receives occasional vehicle traffic with maybe eight to ten trucks a day during the grass growing season dropping off grass clippings. She went on to say the proposed use would result in more than ten vehicles going in/out of the property per day. She stated question #9 in the application, regarding the number of customers is confusing, because no answer is specifically given. She continued saying she interpreted it as a minimum of one person per campsite with up to four visitors each, which would total around 120 people on the subject property. She added that number does not include those present for retail sales or completing services at the property. She stressed the number based on her figures is significantly different than only two people per unit. She went on to say she is also troubled by the proposed number of parking spaces, because forty vehicles will require a large amount of land covered in asphalt, concrete, or a different hard surface. She then mentioned the existing dirt/composite driveway leading to the property, which is shown on the site plan as the only access to the property. She explained the Zoning Ordinance and Department of Transportation state the change in use from agricultural to commercial requires a commercial driveway. She continued saying a commercial driveway requires an area of approximately 300 ft., and she then submitted a copy of the documents provided by the Department of Transportation to indicate what area may be needed for the driveway. Mr. Campanello explained the Board understands the requirements, and he then questioned the location of the driveway. Mrs. Kraucunas responded the driveway is directly across from her property. She stated the subject property was covered in trees that would provide a natural barrier, but the requirement of a commercial driveway will involve the removal of vegetation for a 300 ft. strip. She stressed a large amount of vegetation has already been removed from the property, and pictures of the

removed vegetation were included in the affidavits. Mrs. Kraucunas explained the use of their property will be substantially injured by the open area, parking lot, and additional traffic. She went on to say the proposed operation would generate a large amount of vehicle activity that could cause a substantial traffic problem. She noted pictures were submitted with the affidavits demonstrating the existing traffic problems. She stressed vehicles slide/run off of the road even during the summer in this area, but not all of the incidents are filed as accident reports. She pointed out both sides of the road have very steep drop-offs that vehicles easily end up in. She added people turning into the subject property would have to cross traffic at times, and the area has a 50 MPH speed limit. She stressed the speed limit is critical, because traffic could back up causing a substantial amount of noise around their property. Mrs. Kraucunas stated the local Transportation Department requires a passing lane, if more than 25 left turns take place within a survey hour, which she believes would be located on her property. However, she continued saying they have utility/gas lines in that area, which would interfere with the construction of a passing lane. She noted traffic/vehicle access is one of the major concerns the county Zoning Ordinance was made to address. Mrs. Kraucunas then read a sentence from the Zoning Ordinance, "Streets and highways allow the most intense use of land by everyone in community. They are one of the best indicators of land use policy or reveal dangerous conflicts between uses." She then stated she submitted an open records request to determine how many vehicle incidents/accidents took place in the 911 call areas of 59000 CR 9 and 59500 CR 9. She went on to say the information she received showed over 25 officer involved reports, and she filed another open records request to specifically find out the accident types and time they took place.

Mrs. Hoff came back on and submitted a letter from Douglas & Debra Parcell, 25655 CR 24, who were unable to attend the meeting [Attached to file as Remonstrator Exhibit #2]. Mr. Norman request she point out the Parcells' property on the aerial, and she proceeded to point it out. She stressed the Parcells would be greatly impacted by this operation.

Mr. David Miller and Mrs. Kidder came back on to address the concerns. Mr. Hesser request they address the toilets/showers, parking lot, size/capacity of the tents, and septic system location. Mrs. Kidder addressed the shower facility, and she explained each tent will have a shower and toilet that will be winterized and pulled out in the winter. She went on to say the tents are canvas and will be installed on a wood platform. Mr. Hesser questioned the size of the tents, and Mrs. Kidder responded they have not decided on a size. Mr. Noman pointed out the site plan shows the tent size as 14'x20'. Mrs. Kidder noted the size on the site plan is the maximum size tent they would install, so they may be slightly smaller. Mr. Hesser clarified each tent will only have one bed in it. Mrs. Kidder responded each tent will sleep two adults, but they put down two to four per site in case they bring a child. She explained some luxury campgrounds allow children in the same tent as their parents while others require additional tents be booked, but they have not decided on their policy. She continued saying they may allow two adults and two children per tent. Mr. Atha questioned wastewater removal. Mrs. Kidder stated the septic system will run to each tent site. Mr. Norman request she point out the proposed location for the well and septic system on the aerial. Mrs. Kidder explained a soil study has not been completed on the property yet, because all of the soil scientist are busy. She went on to say the septic system location will be determined by the results of that study, and she pointed out the proposed tent sites. Mr. David Miller stated they would like the septic system to be close to the tent sites. Mrs. Kidder pointed out an area of higher ground where they would like to install the septic system. Mr. Campanello



clarified the soil study will determine, if the septic system will be a conventional or mound system. Mrs. Kidder noted the property has plenty of room for either type of system. Mr. Norman asked what size well they plan to install, and Mr. David Miller responded he believes a standard well will work for the site. He went on to say they will install the size recommended for the site, and he added the use will be limited. Mr. Hesser then questioned parking lot materials, and Mrs. Kidder responded gravel. She explained they plan to have room for 40 parking spaces, but only one car will be allowed per tent. She reiterated only 20 guests cars should be on the property at a time, but they figured 40 spaces to allow extra room for staff. Mr. Roger Miller mentioned their plan to have a staff member live in their current residence, and he asked if access will be allowed to the campground through their residential property. Mrs. Kidder pointed out their 3-acre residential lot on the aerial adjacent to the campground property, and she explained they would like to figure living in their residence as part of the staff member's pay. She pointed out where they plan to have access for the staff member to the campground through their property. She stressed they will not use Fairwind Dr. in a commercial capacity. Mr. Campanello asked staff if the owners are required to live onsite for the Special Use, and Mr. Auvil responded the Special Use is tied to the property not the owners. Mr. Norman questioned access to the proposed septic system location for a pump truck. Mr. David Miller stated he believes the property has been misrepresented as swampy, which is not the case. He then pointed out neighboring properties that do have low, swampy land and high areas on his own property. He stressed the subject property is not wetland, and a ditch along the road helps to drain the property. He went on to say an existing drive extends back to the area where they plan to install a septic system, so access will not be a problem. Mrs. Kidder noted a tunnel exists in the tree line that would easily allow a large truck to access the septic system. She added the area for the proposed flower beds and tent sites is all high ground. She then addressed the noise concern and clarified they will have activities but not loud activities. She explained the proposed activities include yoga, cooking classes, flower growing seminars, and an acoustic guitarist that are not loud by nature. She then stated they do not intend to have a camp store for the sale of merchandise. She stressed it is difficult for the general public to envision a luxury campground unless they have visited one. She went on to say it is not a campground where guests purchase canned goods from a camp store. She explained the campers go eat dinner and find things to do in the community and then return to the campsite. She noted the only merchandise she plans to sell is hats or sweatshirts with their logo. Mrs. Kidder then addressed the campfire issue and explained luxury campgrounds do not allow fires at every tent site. She continued saying they plan to have four to five controlled fire zones that staff will light/maintain. She reiterated they will have four to five fires not twenty. She then asked the Board if they have a specific number of fires they would allow. She noted wildlife displacement was mentioned in a remonstrance letter. She stressed they love wildlife, and they do not even allow people to hunt on their land. She stated their plan is to have a peaceful, quiet retreat with as much wildlife as possible. She added they will not allow motor homes or camping trailers.

The public hearing was closed at this time.

Mr. Campanello stated he would have appreciated more planning, and Mr. Norman added it would have been nice to see a professional site plan from an engineer. Mr. Roger Miller pointed out the property is zoned A-1, and he does not believe this is an intense use. Mr. Hesser agreed a more detailed site plan would be appreciated, but he does not see that the proposed use would require the same level of detail as a more intense use. Mr. Roger Miller noted the Board recently

approved a wedding venue close to Goshen that is a more intense use. Mr. Atha described the proposed operation as outdoor hotel rooms, and he stressed guests will not bring tents/camping supplies to set up. Mr. Hesser questioned future expansion of the campground, and he clarified other uses such as weddings are not included with approval. Mr. Auvil responded the request is for a campground not a wedding venue, which would require additional approval. Mr. Campanello suggested tabling the request to allow the petitioner time to provide more information and a detailed site plan. Mr. Roger Miller stated he does not believe additional information is needed for the proposed use. Mr. Atha added the septic and well must be approved by the Environmental Health Department. Mr. Hesser stated he understands the basis for the objections, but he believes most of them are based on speculation. He went on to say he does not foresee this operation causing traffic issues, and twenty to twenty-five residences could potentially be constructed on the property that would generate more traffic. He continued saying based on the representation and request most of the concerns have been addressed. He mentioned he would like a more detailed site plan, but he is okay approving the submitted plan due to the nature of the proposal. He stated he questions the viability of this operation, but that is not up to the Board. He then suggested adding a time limit to approval, because it does not appear that too much capital will need to be invested. Mr. Campanello asked the petitioners how long they anticipate it taking for the campground to be operational. Mr. David Miller responded it may take two to three years to be operational, and a considerable amount of capital will be involved. Mr. Campanello asked if they plan to have campers on the property this coming season, and Mrs. Kidder responded no. Mr. David Miller reiterated it will likely take them two to three years to be operable. Mrs. Kidder explained the submitted site plan is hand-drawn, because they did not want to spend the money for a Special Use that may not be approved. Mr. Campanello suggested installing a smaller number of units at first then expanding in the future. Mrs. Kidder responded they already planned to open in phases of five to ten tents at a time. She noted they will need twenty tents in the end to make the campground feasible for them. Mr. David Miller pointed out they will invest money into installing the septic system, and it would cause a hardship, if they could no longer utilize it. Mr. Norman asked if water needs to be retained on the subject property, and Mr. Auvil responded a SWPPP is required, if more than one acre is disturbed. Mr. Campanello explained a SWPPP will likely be required for this property. Mr. Roger Miller stated the petitioners have a plan in place for this operation. Mr. Campanello suggested a two year time limit be imposed, and Mr. Hesser requested three years. He added the request will be approved as represented, and a complaint can be filed, if something is done outside of that.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a campground (20 units) 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 1/11/2021 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 = 5).

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

6. The application of *Jennifer M. Smith formerly known as Jennifer M. Kveton* for a Special Use for a home workshop/business for a dog grooming business on property located on the south side of US 20, 1,290 ft. east of CR 29, common address of 16504 US 20 in Jefferson 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-0053-2021*.

There were five neighboring property owners notified of this request.

Jennifer Smith, 16504 US 20, Goshen, was present for this request. She explained she would like to operate a small dog grooming business from her residence. She continued saying she currently has a full-time job, so she plans to work evenings a few days a week depending on demand. Mr. Campanello asked if she will kennel any of the dogs, and he clarified they will be groomed and then leave the building. Mr. Hesser clarified customers will wait on site for their dogs to be groomed. Mrs. Smith responded she will have an area for people to wait, or they can pick the dog up when they are done. Mr. Miller noted no additional structures will be added to the property.

Michelle Blough, 57643 CR 31, was present with a question and stated she owns the farmland just south of the subject property. She asked if any fencing will be installed for the dogs in case they need to go out. She went on to say she would like to know how much space would be fenced in and what type of fence would be installed. She explained she has cattle on her property, so she does not want dogs running loose.

Mrs. Smith came back on and stated she has two dogs of her own. She continued saying she has a 12'x40', 4' tall fenced in area for her dogs to run, and any dogs she is grooming that need to use the restroom can utilize that area. Mr. Hesser questioned the location of the existing fence, and she pointed it out on the aerial.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser mentioned the request includes a 4'x8' sign, and he noted a home workshop/business typically only allows 8 sq. ft. per side. Mr. Atha suggested only the standard size be allowed. Mr. Campanello asked why she needs a 4'x8' sign, and he explained the county standard is 4 sq. ft. Mrs. Smith responded she has never had a business sign, and she is okay with the standard size.

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

**Motion: Action:** Approve, **Moved by** Joe Atha, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further

moved that this request for a Special Use for a home workshop/business for a dog grooming business be approved with the following condition imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted 1/19/2021 and as represented in the Special Use application.
2. Any signage limited to one (1) double-sided sign four (4) square feet per side.

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

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

7. The application of *Mervin L. Stoltzfus & Laverda J. Stoltzfus, Husband & Wife* for a Special Use for a school on property located on the west side of CR 41, 400 ft. south of CR 24, in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0032-2021*.

There were six neighboring property owners notified of this request.

Merv Stoltzfus, 60112 CR 41, was present for this request and stated he lives south of the subject property. He explained he purchased the property to build a school, because the one their children currently attend is crowded. He went on to say their options were to construct a new school or add onto the existing one, and they decided to construct a new one. Mr. Campanello asked how many students will attend the school. Mr. Stoltzfus responded the total number in the building will be 40 including staff. He explained they will have 37 students and 3 staff members. Mr. Hesser mentioned a 24"x8" sign is listed in the application. Mr. Stoltzfus explained they typically place a small sign on the school house with the school name.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Joe Atha, **Seconded by** 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 school 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 1/12/2021 and as represented in the Special Use application.

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

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

8. The application of **Joseph Miller & Regina F. Miller, Husband & Wife** for a Special Use for a home workshop/business for a retail store on property located on the south side of CR 22, 1,855 ft. west of CR 31, common address of 16228 CR 22 in Jefferson 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-0054-2021*.

There were six neighboring property owners notified of this request.

Joseph Miller, 16228 CR 22, was present for this request and pointed out a building they would like to convert into a bent/dent grocery store. Mr. Campanello clarified the proposed operation would be similar to the bent/dent store on CR 119. Mr. Hesser mentioned a 4'x6' sign was requested, and he asked the distance from the road. Mr. Joseph Miller responded the sign can be placed at the required setback, and they can move it back a significant amount. Mr. Auvil explained signs can typically be placed at the right-of-way line, which he believes is generally 40 ft. from the centerline of the road. Mr. Atha asked if he is opposed to the restriction of a 4 sq. ft. double-sided sign, and Mr. Joseph Miller responded no. Mr. Campanello clarified a semi has room to turn around on the property without backing into/off of the road. Mr. Joseph Miller explained they have a circle driveway, but it is not currently large enough for a semi to turn-around. Mr. Campanello stressed semis cannot back into the property off of the road; they must be able to drive in and turn around on the property. Mr. Joseph Miller responded the driveway could be turned into a u shaped drive, but the proposed change would require another driveway permit. Mr. Hesser reiterated the semi cannot back into/off of the property. Mr. Joseph Miller stated he should be able to widen the drive to allow a semi to turn-around. Mr. Roger Miller suggested a revised site plan be submitted showing the semi turn-around for staff approval. Mr. Atha noted the size of the sign will also need to be changed to meet the standard for a home workshop/business.

Kayle Miller, 15875 CR 22, Middlebury, came on in favor of the store. She stated she believes this store will be a great addition to the community by providing a local grocery store. She went on to say they typically have to go into town to purchase their church food, but the petitioners plan to carry that at this store. She stressed this location will provide easy access for their needed food.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a retail store 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 semi turn-around.

The following commitments were imposed:

1. The request is approved in accordance with the site plan to be submitted for staff approval and as represented in the Special Use application.
2. Any signage limited to one (1) double-sided sign four (4) square feet per side.
3. Backing in or backing out of vehicles from/onto CR 22 is prohibited.

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

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

9. The application of *Steven P. Klotz & Cheryl L. Klotz, Husband & Wife* for a Special Use for a ground-mounted solar array on property located on the east side of CR 3, 765 ft. north of CR 38, common address of 64830 CR 3 in Olive 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-0038-2021*.

There were eight neighboring property owners notified of this request.

Rebecca Mitschelen, Solar Energy Systems, 8015 W 1350 N, Nappanee, was present representing the petitioners. She stated they would like to install a small array with 30 panels. She went on to say they would potentially like to add a few additional panels, but the proposed structure size will not change. She then pointed out the proposed location on the aerial, and she noted the petitioners do not want the array any closer to the residence or pond. She explained the proposed array will meet the required setbacks at 15 ft. from the back property line and 50 ft. from the side property line. She added all of the wire will be trenched up to the residence, so it will not be exposed. Mr. Hesser clarified the 15 ft. shown on the site plan is the distance from the property line to the array. He then asked the length of the array, and Mrs. Mitschelen responded it is 50'x13'. She added the array will be 13' tall. Mr. Miller asked if the additional arrays mentioned will be on top of the mentioned structure. Mrs. Mitschelen explained they plan to install two racking systems, and 20 panels can be added to a single rack. She went on to say two full racks will be installed, but not all of the panels will be installed right away.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a ground-mounted solar array be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted 1/15/2021 and as represented in the Special Use application.

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

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

10. The application of **Joshua Joseph Herman** for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the north side of North Shore Dr., 575 ft. west of CR 11, common address of 24853 North Shore Dr. in Osolo Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0016-2021*.

There were 25 neighboring property owners notified of this request.

Larry Bellamy, 50973 CR 11, was present representing Joshua Herman, 50962 Sail Bay Ct.

Tim Schmucker, 12819 York Hills Dr., Middlebury, was also present for this request as the contractor. He explained the petitioner would like to build an accessory structure on the subject property. He stated the petitioner lives in the Simonton Lake area, and they are not allowed to park boats, cars, etc. outside or on the street. He then pointed out the petitioner's residence on the aerial. He stressed the petitioner does not have room for an accessory structure on his residential property, so he purchased the subject property for his building. He mentioned he will use the building for boats and associated storage. He pointed out a place on the application lists the frontage as 64 ft. and the depth as 84 ft. However, he continued the property is 95.5' x 200'. Mr. Hesser noted the site plan reflects the correct property dimensions. He then asked if the proposed structure will have water and electricity, and Mr. Bellamy responded yes. He added a well will be needed, if he decides to run water to the structure. He went on to say the building will have electricity, and he plans to install cameras for security purposes. Mr. Campanello asked where Mr. Bellamy resides, and he then pointed out his residence on the aerial. Mr. Campanello questioned why the adjoining properties are vacant. Mr. Bellamy responded the properties in that area have been purchased, and he then went through and explained who purchased each lot and their proposed uses. He went on to say he owns a boat and jet ski, and the petitioner owns a boat, snowmobiles, and cars that they would like to store inside the proposed building. He stressed they do not want their items stored outside, and the petitioner is not allowed to store his boat outside on his residential property. He continued saying he could store his boat outside, but he does not. Mr. Bellamy stated the proposed building will look like an accessory structure, but a property off of Corbin Dr. also has an accessory structure without a residence. He then pointed out the mentioned property on the aerial, and another property with a large building on its own lot. He stressed the neighbors are okay with this request. He then stated the petitioner is out of town, but he planned to obtain signatures in favor of his request. He proceeded to point out different neighbors on the aerial who are in favor of this request, because everything will be stored inside the building and out of sight.

Mr. Auvil came on and submitted an email from Timothy & Tamara Hockabout, 24872 Corbin Dr., opposed to this request *[Attached to file as Staff Exhibit #1]*. He noted their concern about a nonresidential structure on the subject property. He went on to say the letter expresses a concern about junk laying around, and they mention a property on Corbin Dr. that they believe constructed a building without permission.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated this property is similar to the one they denied last month. He explained the Board typically grants similar requests when water is involved, small lots, and the property is

adjacent or across the street from the petitioner's residence. Mr. Miller reiterated the Board has approved requests in the past where the properties are close and can be tied together on one recorded deed. Mr. Bellamy stressed the petitioner does plan to install a grinder pump on the property to hook onto city sewer. Mr. Hesser stated other properties in the area do not have accessory structures without a residence, so he is leaning towards denial.

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

**Motion: Action: Deny, Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of an accessory structure without a residence be denied.

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

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

11. The application of *Eduvges Vargas Espino* for a Special Use for a mobile home, for a 20 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for the placement of a mobile home 30 ft. from the centerline of the right-of-way, and for a Developmental Variance to allow for the placement of a mobile home within 300 ft. of a residence on property located on the south side of Shamrock Dr., 130 ft. east of Planeville Ave., north of CR 34, west of CR 29, common address of 17400 Shamrock Dr. in Elkhart Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0964-2020*.

There were 18 neighboring property owners notified of this request.

Mr. Hesser clarified a mobile home has not been on the subject property since 1994 based on the referenced history. He questioned the building shown on the aerial, and it was determined to be a shed.

Erica Anaya, 1410 N. 10<sup>th</sup> St., Niles, and Eduvges Vargas, 275 Brookside Manor, Goshen, were both present for this request. Miss Anaya explained the petitioner would like to place a mobile home on the property for her and her daughter. Mr. Miller questioned why the request was transferred from the Hearing Officer. Mr. Hesser responded he believes due to remonstrance, and the previous petition was denied. Mr. Auvil stated staff investigated the previous request, and it was withdrawn not denied. Mr. Hesser noted a few remonstrance letters were included in the Board member's packet.

Mr. Auvil submitted a letter from Kevin & Julie Gruver, 17479 CR 34, opposed to the request [Attached to file as Staff Exhibit #1]. He explained they believe a mobile home in the neighborhood will have a negative effect on their property value and lead to more manufactured/mobile homes in the neighborhood. Mr. Auvil clarified the request was re-advertised. Mr. Miller stated he does not believe staff typically recommends approval for mobile home requests, and he asked staff their reason for recommending approval. Mr. Auvil responded he does not believe staff typically recommends denial for similar requests, and he added the proposed mobile home is currently in a mobile home park that has high standards for their units. He went on to say housing is a great need in the county, and mobile homes are an affordable option. Mr. Norman mentioned the Board denied a similar request in the saw mill district last year, but that property also did not have enough room for a septic system.



There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser clarified a pad is existing on the property. Mr. Atha stated he believes mobile homes are frequently denied when they do not meet the required setback from a stick built residence. Mr. Campanello stressed a mobile home on the subject property should not negatively impact anyone. Mr. Miller mentioned he recalls the Board approving mobile homes on property with an existing residence for a period of five years, when the resident needs special care. Mr. Campanello noted approval would not be permanent and would require a renewal in three years. He stressed the county needs housing, and this location is not in the middle of a subdivision. He went on to say he believes the subject property is somewhat hidden. Mr. Norman pointed out one of the neighbors submitted a letter explaining that they were denied a Mobile Home Special Use, so they constructed a stick built residence.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Randy Hesser 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 mobile home be approved with the following conditions imposed:

1. The request is approved for a period of 3 years with a 1-year review to verify compliance with the following:
  - a. The mobile home shall be adequately stabilized and skirted and have tie-downs installed.
  - b. The water supply and sewage disposal system shall be installed in accordance with County Health Department specifications.
  - c. Adequate provisions for storage shall be provided at all times to eliminate exterior storage of personal property, tools, and vehicles, except licensed motor vehicles.
  - d. At all times, the premises shall be kept free of abandoned junk vehicles and parts thereof as described by Indiana State Law.
2. The request is approved in accordance with the site plan submitted 12/14/2020 and as represented in the Special Use application.

Further, the motion also included that a 20 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for the placement of a mobile home 30 ft. from the centerline of the right-of-way, and for a Developmental Variance to allow for the placement of a mobile home within 300 ft. of a residence be approved with the following conditions imposed:

1. Variances from the developmental standards of the Zoning Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the site plan submitted 12/14/2020 and as represented in the Developmental Variance application.

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

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

**No:** Ron Norman.

12. The application of **Ryan O. Hanna & Kelly M. Hanna, Husband & Wife** for a 7:1 depth-to-width-ratio Developmental Variance and for a 71 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for the construction of a residence on property located on the north side of CR 18, 2,600 ft. east of CR 1, in Baugo 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-0929-2020*.

There were eight neighboring property owners notified of this request.

Terry Lang, Lang, Feeny, and Associates, 715 S. Michigan St., South Bend, was present representing the petitioners. He explained the subject property was originally part of a larger tract, which he pointed out on the aerial. He stated the previous owner decided to split the subject parcel off to keep for a future residence when he sold the larger tract. He went on to say the previous owner then decided he wanted to live somewhere warmer and sold the subject property that he had kept. He stated the Hannas then purchased that property with the intent to construct a residence just as the previous owner had planned. He continued saying Developmental Variances are needed for the lot-width and depth-to-width ratio. He added they plan to construct one single family residence on the property. He went on to say the owner of the neighboring property expressed concern about a new residence, but he had the opportunity to purchase both properties when he bought the larger piece. However, he continued the neighbor opted not to purchase both pieces from the previous owner, and it was instead sold to the Hannas. Mr. Hesser asked why the Developmental Variances were not requested when the property was split. Mr. Lang responded he is unsure, because he was not part of the property split. Mr. Hesser clarified the previous owner did not own the property to the south of the subject parcel. He reiterated the previous owner had the intention to construct a residence on the smaller piece.

Mr. Auvil submitted an email received by staff from Andrew Coblentz, 29545 CR 18, in remonstrance [*Attached to file as Staff Exhibit #1*].

Andrew Coblentz, 29545 CR 18, Elkhart, came on in remonstrance and pointed out his residence on the aerial. Mr. Hesser stated the Board received copies of the information submitted with the Appeal. Mr. Auvil clarified the email received yesterday contains additional information. Mr. Coblentz explained the smaller parcel was not for sale when he purchased his property, but the previous owner told him he was free to use the driveway on that parcel. He went on to say the driveway on the subject property is the only access to his shop, barn, and field. He stressed approving a Developmental Variance would cut off access to his buildings and field. Mr. Hesser asked if an access easement was recorded. Mr. Coblentz responded no, and he went on to say he should have recorded an easement rather than acting on a verbal agreement. He mentioned he was not aware that the previous owner wanted to build a residence on the smaller parcel when he purchased his property, because the owner had decided to move to Florida at that point. He continued saying the previous owner informed him that he would have a chance to purchase the property. He then addressed the submitted email and explained he did not purchase the subject property before it went on the market, because his realtor and him were informed that the parcel was not buildable by someone in the Planning & Development Department. He stressed the previous owner was selling the property for 2 to 3 times the amount it was worth without being buildable. He noted he has since discovered that he was given incorrect information by staff, and he would have purchased the property before it went on the market, if he had known a residence

could be constructed on it. Mr. Campanello explained the property is not buildable without Board approval. Mr. Coblentz responded the staff member he spoke to informed him it would take a two to three step process to make the property buildable. He added he was also informed that the neighbors would be able to appeal the Board's decision and prevent a residence from being constructed. Mr. Hesser asked what he thought the previous owner planned to do with the subject parcel. He responded he was told it would be sold, and he would have the opportunity to purchase it. Mr. Hesser noted he would assume the owner planned to sell the property for someone to construct a residence on it. Mr. Coblentz responded he planned to continue farming the property and maintain access to his buildings. He added the previous owner did not want to sell both properties at the same time. Mr. Hesser pointed out the previous owner had no reason not to sell him the subject property, if he had no plans to build or sell it to someone else to build a residence. Mr. Coblentz stated he was aware the owner planned to move to Florida and sell the property when he purchased his portion. Mr. Hesser mentioned it was noted from the previous hearing that Mr. Coblentz was granted access in exchange for maintaining the property. Mr. Coblentz agreed that was their verbal agreement. He then summarized he is appealing the Developmental Variances, because a residence on the subject property would be injurious to their general welfare and cause substantial adverse effect on his property by cutting off access to two of his buildings and field. He went on to say he believes he has provided a legal reason for the Board to deny the Developmental Variances presented. He noted he has made numerous attempts to contact the Hannas through text and phone calls to discuss the possibility of coming to an access easement agreement per the advice he received from the surveyor. He continued saying the Hannas have refused to respond, which he takes as a no. He stressed he is unsure where or how he could install a new driveway without removing a building or row of large trees and new fence that he installed last year. Mr. Campanello asked if he had anyone was present representing him when the verbal access agreement was made, and Mr. Coblentz responded his realtor, Steve Miller. Mr. Campanello then asked if he was advised to record a written agreement, and Mr. Coblentz responded no. He then noted it was mentioned earlier that the county needs housing, and he asked what would prevent him from subdividing his property. Mr. Hesser responded he would need to follow the proper procedures for approval. Mr. Coblentz stated he would prefer his property remain a farm, but he could always subdivide it. Mr. Norman pointed out only one residence will be constructed on the subject property. Mr. Hesser questioned the need for a Minor Subdivision. Mr. Auvil explained the Minor Subdivision is needed because the property was subdivided without going through the proper process. He went on to say people split property and create parcels frequently without the zoning approval. He stressed the Planning and Development Department does not control land splits, so a Minor Subdivision and Developmental Variances are needed now to make this property a buildable lot. Mr. Coblentz mentioned the neighbor directly east of the subject property also wanted to speak against this request but was unable to attend the hearing.

Lenore Crimi, 29526 CR 18, the neighbor directly across the street from Andrew Coblentz, was present against this request. She stated she has lived on her property since 1970, and she is opposed to this request due to the number of subdivisions on this road. She went on to say they used to have a lot of trees and deer in the area, and she does not believe another subdivision is necessary. She went on to say she knows Roger Pickens, the previous owner, and he never told her that he planned to construct a residence on the property. Mr. Hesser questioned how he planned to use the property, and she responded he wanted to construct a building for storage. She went on

to say he cared for his mother who collected a lot of things, and he kept a storage bin on the subject property for a while.

Terry Lang came back on and pointed out several properties across the street that do not meet the road frontage or depth-to-width requirements. He noted similar situations have already been approved in the area. He then addressed the access issue. He pointed out Mr. Coblentz's property has over 200 ft. of road frontage, and he could remove a tree for less money than it would cost to purchase the subject property. He stressed the proposal is not injurious to the neighborhood, because the request is for a residential use. Mr. Campanello asked why a parcel would be created without the intent to construct a residence and if splitting property increases the taxes. Mr. Lang responded taxes would not increase with a land split; they would only increase when a structure is constructed. He noted the only inconvenience from splitting the property would be separate tax statements.

The public hearing was closed at this time.

Mr. Campanello stated Mr. Coblentz could have purchased the property but did not. He added the subject property has gone through the proper process to become a buildable lot. Mr. Miller noted four or five properties with similar configurations exist within a mile of this one, so this request is not out of the ordinary for this area. Mr. Hesser stated the history of similar properties in the area is relevant, but the Commissioners and County Council set rules in the Zoning Ordinance that disfavor flagpole lots. He went on to say he does not like that the previous owner split the property assuming it would receive approval for the needed Developmental Variances. He stressed he believes the previous owner had every intention to construct a residence on the subject property when he split it off. He added he does not agree with the statement made by the neighbor that this property is part of his farm and should not be interfered with, but he attributed it to the emotions involved in property disputes. He continued saying he would have liked the Developmental Variances and access easement to have been addressed when the property was split, but he does not see approval of this request as being inconsistent with the area. Mr. Miller mentioned denial of this request would be inconsistent with previous Board action.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a 7:1 depth-to-width-ratio Developmental Variance and for a 71 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for the construction of a residence be approved with the following conditions imposed:

1. Variances from the developmental standards of the Zoning Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the site plan submitted 12/3/2020 and as represented in the Developmental Variance application.

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

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

13. The meeting was adjourned at 1:25 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