

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 18th DAY OF MARCH 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; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Tony Campanello.

2. A motion was made and seconded (*Atha/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18th day of February 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 **Glory Church, Inc.** for a Special Use for a place of worship on property located on the west side of CR 29, 2,425 ft. south of CR 50, common address of 70921 CR 29 in Jackson 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-0097-2021*.

There were nine neighboring property owners notified of this request.

Mark Stutzman, 16536 CR 50, Syracuse, was present for this request. He stated the intended use is a place of worship to impact the community in a positive manner. Mr. Hesser asked if the building is already constructed, and Mr. Stutzman responded yes. He went on to say it was constructed a year ago, and was on the property when they purchased it. He added proposed addition is for restrooms. Mr. Norman clarified the size of the building. Mr. Stutzman confirmed that the building is 5,300 sq. ft. and that the first half of the building is two-stories.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a place of worship 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 2/3/2021) and as represented in the Special Use application.

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

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

5. The application of *Maria Miranda* for a Special Use for a home workshop/business for a tire service business on property located on the south side of CR 6, 1,500 ft. east of CR 10, common address of 29580 CR 6 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 #SUP-0063-2021*.

There were 12 neighboring property owners notified of this request.

No petitioner was present.

Ryan Epp, 29552 CR 6, Elkhart, the neighboring property owner was present against this request and pointed out his residence on the aerial. He pointed out an area on the aerial where the petitioner stores a lot of vehicles and causes a lot of noise. Mr. Epp stated he was opposed to this due to the number of vehicles stored outside and the noise generated when the petitioner is operating on the property. Mr. Atha clarified the remonstrator was present at the first hearing with a noise concern. He then asked how often vehicles sit outside. Mr. Epp stated vehicles are always outside. Mr. Atha asked about the hours of operation. Mr. Epp responded he petitioner is pretty good operating within the working day, but he leaves a lot of vehicles outside.

The public hearing remained open, and the request was tabled until the end of the 8:30 a.m. time slot.

6. The application of *Pleasant View Church of Goshen, Inc.* for an Amendment to an existing Special Use for a place of worship to allow for two new wall-mounted signs on property located on the southwest corner of CR 23 & CR 20, common address of 58529 CR 23 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-0123-2021*.

There were 27 neighboring property owners notified of this request.

Richard Johnson, Burkhart Signs, 1247 Mishawaka Ave, South Bend, was present representing the petitioners. He stated DJ Construction, the general contractor for the renovation/addition, contracted him to install two wall signs for a fresher, more modern look to their logo. He stated these signs are non-illuminated and very proportionate to the façade they are putting them on. Mr. Hesser clarified both signs are façade signs, not at the road. Mr. Johnson stated that was correct they are façade signs on the building where some renovations were done on the exterior. He then pointed out the proposed sign locations on the aerial. He noted the signage will sit on a rock wall, and one will be out in the parking lot where there is a second entrance to the church. He reiterated the signs are non-illuminated, proportionate, and have no wording on them. He also stated there will not be a clutter issue.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a place of worship to allow for two new wall-mounted signs 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 2/12/2021) and as represented in the Special Use Amendment application.

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

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

7. The application of *Hickory Hollow School (Buyer) & Freeman Bontrager (Seller)* for a Special Use for a school on property located on the east side of CR 101, 1,470 ft. south of CR 56, in Locke Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0115-2021*.

There were eight neighboring property owners notified of this request.

Freeman Bontrager, 72758 CR 101, Nappanee, was present for this request. He stated their school is overcrowded, and they need an additional one. Mr. Atha pointed out a property on the aerial and asked its use. It was determined that the use was a residence and a home workshop that was approved last year. Mr. Hesser asked when they decided to put a school on the property, and Mr. Bontrager responded November/December. He explained they were looking for other property, but they could not find another location. He added another neighbor said that his back property could be used, but it was determined that the school would be in a low spot that floods. He stated that instead of putting the school in the low spot; he was willing to donate part of his property. An additional property off of CR 13 and CR 50. However, he continued the parents didn't want the school there due to traffic and safety issues. He stressed their existing school is very overcrowded. Mr. Hesser asked why the school was not mentioned when he applied for the Special Use, and he responded it all happened after he applied for the home workshop/business that was approved. Mr. Hesser stated the hearing was in January and this application was filed 20 days later. He stressed the private school required a lot of approvals from the community, bishop, and church. He stated the approval was given after the home workshop/business was approved, and if he would have known then he would have done that first instead of having to do everything twice. Mr. Hesser asked if a minor subdivision has been applied for or approved. Mr. Auvil stated he isn't sure, because he received seven Administrative Subdivisions. Mr. Bontrager stated he has all of the paperwork. Mr. Hesser asked why the school property needs to be the proposed width causing he need for a Developmental Variance on Mr. Bontrager's property. He responded they could change it, but they wanted enough room to have a ball diamond. Mr. Hesser stated he saw a basketball court but not a ball diamond on the site plan. He noted the ball diamond was on the newest site plan, but that it is a circle, not really a diamond. Mr. Auvil explained three acres is needed for an Administrative Subdivision, and whatever dimensions are needed the staff is favorable of this request. Mr. Hesser asked if the subject property is at three acres, and Mr. Auvil stated that is

correct. Mr. Norman asked if the concern is the flag-pole lot that will remain. Mr. Hesser stated he believes the next request is a self-created hardship. Mr. Norman asked if the property could be longer/narrower, and pointed to the spot on the aerial. Mr. Bontrager responded the back part floods once or twice a year. Mr. Norman stated that they do not want a flooded building, and Mr. Bontrager agreed. Mr. Bontrager showed where there is a row of hedges on his property where he could move his driveway to make sure there is a wide range of visibility for the children from the road. He responded his driveway does not have to go there, but he wanted his drive as far over as possible. He stated he wouldn't be opposed to changing it if, it wasn't for those reasons.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his concern was that the school was not mentioned when the previous home workshop/business was approved, but the petitioner answered the questions regarding this concern and tried finding a location elsewhere. Mr. Hesser stated he was also concerned about the subdivision being approved, but that is approved. He added this is not the way he would have preferred it done, but he understands why it happened this way.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Ron Norman 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 (dated 2/11/2021) and as represented in the Special Use application.

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

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

8. A staff item was presented by Mr. Auvil, for a Minor Change Request for Andrew and Suzy Martin, Husband and Wife. He explained their request is to Amend their site plan to allow for a truss storage building. He stated this is a unique situation in that they were granted a Special Use for an ag business because the construction products they produce, the trusses and various things, are made for agricultural buildings. He continued saying just like anything when the market is low they buy a bunch of materials. He explained they need the proposed building for lumber storage for the production of their agricultural buildings. He noted staff recommends approval of the request as a minor change. He explained that it is a very large piece of property, they've had zero complaints, and it is very much in line with Elkhart County. Mr. Hesser stated the map says CR 1, but he thought it was CR 17. He mentioned the request has been heard several times. He noted the trusses are laying outside, and no outside storage should be taking place. It was discussed that the products stored outside are stacked materials ready to be used for production, and the proposed building would allow it to be stored inside.

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 approve the request as a minor change.

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

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

9. Mr. Godlewski stepped forward and explained there was another staff item that needed to be presented. Mr. Godlewski stated that next month and for the foreseeable future public hearings are being moved to 117 N. 2nd Street to the Administration Building Meeting Room. He stated an official motion is needed to amend the location to rooms 104, 106, & 108 in the Administration Building until further notice.

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 approve the request to change the location of Board of Zoning Appeals meetings to meeting rooms 104, 106, and 108 at the Elkhart County Administration Building, 117 N. 2nd St., Goshen, until further notice.

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

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

10. The application of *Freeman Bontrager* for an Amendment to an existing Special Use for a home workshop/business for a construction business to allow for a reduction in property size, for a 7:1 depth-to-width-ratio Developmental Variance, and for a 50 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for an existing residence on property located on the east side of CR 101, 1,320 ft. south of CR 56, common address of 72758 CR 101 in Locke Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0116-2021*.

There were eight neighboring property owners notified of this request.

Freeman Bontrager, 72758 CR 101, Nappanee, was present for this request. Mr. Hesser asked if the Minor Subdivision has been approved, and Mr. Bontrager responded no. Mr. Hesser asked if approval of this request should be subject to approval of the Minor Subdivision Plat/Plan Commission. Mr. Auvil stated no, because they don't usually make BZA decisions depending on other approvals. He added the Minor Subdivision was listed as a note, not a condition/commitment. Mr. Hesser stated that it was still a requirement for the subject matter today. Mr. Miller noted the Plan Commission has approved several flag-pole lots, because the county is running out of land. Mr. Hesser suggested that requirement be eliminated, if they think it should be removed. Mr. Miller stated it was previously a concern to him, but flag pole lots are now very common. Mr. Auvil stated he believes the county Highway Department will likely move to require shared drives in the next few years for safety reasons.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser mentioned his previous concerns were dealt with in the previous hearing. He suggested the second sentence in finding #3 for the Developmental Variance be deleted.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a home workshop/business for a construction business to allow for a reduction in property size be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 2/11/2021) and as represented in the Special Use Amendment application.

Further, the motion also included that a 7:1 depth-to-width-ratio Developmental Variance, and for a 50 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for an existing residence be approved based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. This is an existing Special Use being modified to allow for a smaller property.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 16.84-acre property in a low-density residential and mixed-use area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. 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 (dated 2/11/2021) and as represented in the Developmental Variance application.

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

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

11. The application of *Steven A. Borkholder & Waneta Lea Borkholder, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for a woodworking business to allow for a reduction in property size and for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2) on property located on the east side of CR 101, 2,435 ft. south of CR 56, common address of 72990 CR 101 in Locke Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0128-2021*.

There were six neighboring property owners notified of this request.

Mr. Hesser asked if the Improvement Location Permit mentioned as a condition is dealing with an addition since the business is not expanding unless he misread it. Mr. Auvil responded the mentioned condition is a canned statement. Mr. Hesser asked if they were adding onto the house, and Mr. Auvil stated he doesn't believe so. He went on to say the request is make the property smaller and allow additional outside employees. He explained most Developmental Variance include improvements, so that is just the standard language used inside the staff reports.

Freeman Bontrager, 72758 CR 101, Nappanee, was present for this request. He stated no additions will be constructed. Mr. Hesser mentioned a proposed addition to the house. Mr. Bontrager stated the father just told him Friday that the son will move into this residence and the father will build out back causing the need for a property split. He stated the son might add onto the house, in the future but he wasn't sure. He stressed this request is because it's a smaller property size and to add an additional employee. He stated the son will take over the existing residence/business, and the father plans to construct a residence on the neighboring property. He stated the father is not home enough to help out much, so they need an additional outside employee. Mr. Hesser asked who runs the business. Mr. Bontrager stated the father and son, and then showed on the aerial where the son currently lives next door to the subject property. It was stated that the business may no longer be a home workshop. Mr. Bontrager stated the business is not growing. He noted the father travels a lot and plans to construct a residence on the back property. Mr. Miller stated he believes more production must be going on causing the need for more employees. Mr. Bontrager clarified there are only 2 employees at this time, and they only want to add one more. Mr. Hesser stated he is concerned that the Board has approved two new additions to the building, and he believes the size of the lot should be a factor in approval. He noted he is not sure the reason for needing more employees, but the owner/occupant may no longer be involved in the business, causing it to no longer be a home workshop/business. He stated he doesn't believe this will have a big impact on the neighborhood, but those are his concerns. Mr. Auvil noted the home workshop/business is restricted on any further expansion due to the smaller property size. He added the request is for four outside employees, and the Ordinance allows two. He notes it seems to be within reason. Mr. Hesser stated he questions if this is it no longer a home workshop, since the current owner will not remain the owner.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha stated this is a really tight spot for the different lots, but it is consistent with the neighborhood.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a home workshop/business for a woodworking business to allow for a reduction in property size be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 2/15/2021) and as represented in the Special Use Amendment application.

Further, the motion also included that a Developmental Variance to allow for 4 outside employees (Ordinance allows 2) 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 2/15/2021) and as represented in the Developmental Variance application

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

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

12. The application of *Randy A. Coyle & Cynthia D. Coyle, Husband & Wife* for a 4 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing attached garage 1 ft. from the west side property line located on the south side of CR 16, 690 ft. south of US 20, common address of 24788 CR 16 in Concord Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0956-2020*.

Cynthia Coyle, 24788 CR 16, Elkhart, was present for this request. She stated the request is for a four ft. Developmental Variance for the garage. She noted it was tabled at the previous hearing for a 60 days to allow them and the neighbor to come to a reasonable agreement, and she believes they have done that. Mr. Miller asked if she ever found out from the contractor why they didn't follow the construction plan. She responded Stephanie Floyd from Progressive Engineering was supposed to be present, because she misinterpreted the setback/location. She explained the builder had given her the site plan, she submitted last time, but Stephanie submitted the site plan on file when she came here for the previous Developmental Variance. She stressed Mrs. Floyd submitted the incorrect site plan, and the contractor built to the correct plans. Mr. Hesser stated he believes the incorrect drawing was based off of the GIS that was off by 20 ft. There was confusion about which site plan was correct, but they came to an agreement that the garage was supposed to be off of the property line five feet. However, it was built one foot from the property line. Mrs. Coyle stated the garage is 22 ft. wide, but Mrs. Floyd put 22 ft. from the garage to the property line, which is incorrect. Mr. Hesser questioned the mentioned agreement with the neighbor. Mrs. Coyle stated the neighbor is present and she believes they have come to an agreement. She went on to say she understands the neighbor isn't going to detest the Developmental Variance. She stated they have some issues with Survey Company, but that's not for this meeting.

Ruth Hill, 1241 Goshen Ave., Elkhart, the neighboring property owner was present. She stated she decided she is no longer against this request as long as the back property line is marked correctly. Mr. Hesser stated he is inclined to approve this request, if the neighbor is in agreement. He questioned if things are finalized yet. Mrs. Hill stated Mrs. Coyle came over and showed her a map of the property line going straight back, but the surveyor marked the property with a curve. She continued saying they can work on that when the snow and mud are gone. She noted the stakes haven't been taken out, but she is okay with approval of this request as long as it is rectified. Mr.

Hesser asked when she expects the survey to be rectified, and she responded when the weather clears up.

Randy Coyle, 24788 CR 16, Elkhart, was present and pointed out a row of trees that made it difficult for the surveyor to mark the property lines. He stated it created a small curve on the property line which is not a problem, because the post that is off can be moved over. He mentioned the surveyor couldn't find a pin in that area but there should be a pin there. He added he has a metal detector, and he can try to find the pin. He then pointed out the location of the one pin and where the other one should be located on the aerial. He noted the pin may be angled due to the property layout but the survey shows the line as straight.

Ruth Hill came back on. Mr. Atha clarified her main concern was that they were encroaching on her property line to the south, and she responded yes. Mr. Atha asked if she is okay with where the new garage was placed. She stated they would have to take it down, if she isn't okay with it, and she doesn't want that. Mr. Hesser asked if she reached an agreement with the Coyles that the garage can stay where it is knowing that it is one foot from the property line. She responded yes.

Randy Coyle came back up to state that when the garage was built they had a garage door put in on both the front and back of the garage, so they would not encroach onto the neighbor's property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if open issues still exist. Attorney Kolbus noted the survey has been completed, but the stake has not been moved. Mr. Atha stated the site plan wasn't correct. Mr. Miller asked the implications in the future for the Board if they approve this request. Mr. Auvil responded nothing. Mr. Atha mentioned the aerial is incorrect, and the whole house and driveway need to be shifted over. Mr. Hesser asked if Mr. Auvil is comfortable with a revised site plan approved by staff. Mr. Auvil responded yes, because they have a copy of the survey submitted with the Minor Subdivision. Mr. Auvil stated a site plan showing the encroachment is in the file. He added staff recommended denial to protect the neighbor's interest, so if the property owner/neighbor is agreeable then staff no longer objects to this. Mr. Hesser asked if he would like to recommend any other conditions or commitments. Mr. Auvil reiterated staff has a recorded plat for this subdivision that satisfies his requirements. Attorney Kolbus stated the survey does show that all hard surface improvements are completely contained on the lot. Mr. Hesser clarified no revised site plan is needed.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a 4 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing attached garage 1 ft. from the west side property line be approved based on the findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare.
2. Approval of the request will not cause substantial adverse effect on neighboring property. The petitioners and neighboring property owner have reached an agreement in respect to the Developmental Variance.

3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 12/09/2020) and as represented in the Developmental Variance application.

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

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

13. The application of *Donald Jay & Ruth E. Hostetler (Land Contract Holders)*, *Nelson M. & Irene J. Martin (Land Contact Purchasers)* for a requested rescission of a Special Use for failure to construct the proposed solar array on property located on the south side of CR 38, 1,730 ft. west of CR 37, common address of 13332 CR 38 in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0245-2017*.

Mr. Auvil stated the property has changed hands, and the solar array was never built. He added there is no plan to build the solar array. Mr. Hesser asked if there was any communications with the petitioners. Mr. Auvil stated they told him the property has changed hands, and they no longer wish to build the solar arrays. Mr. Hesser stated no one was present to speak in favor or against the petition.

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: Rescind, **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 requested rescission of a Special Use for failure to construct the proposed solar array be approved.

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

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

14. The application of *Maria Miranda* for a Special Use for a home workshop/business for a tire service business, previously heard as item #5 on page 2 was recalled at this time.

Mr. Godlewski stated he informed the remonstrator that the petition would likely be tabled until next month, and the meeting will be moved to the new location.

There were no remonstrators present.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a home workshop/business for a tire service business be tabled until the April 15, 2021 Advisory Board of Zoning Appeals meeting due to the absence of the petitioner.

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

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that the previous motion be amended to add that the Board will act on the petition in the petitioner’s absence if they fail to appear at the April 15, 2021, Advisory Board of Zoning Appeals meeting.

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

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

15. The staff item for Andrew & Susie Martin (SUP-0560-2016) was previously heard as item #8 on page 4.

16. The meeting was adjourned at 9:38 a.m.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary