

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20th DAY OF MAY 2021 AT 8:30 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATIVE BUILDING
117 N. 2ND STREET, 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; Danny Dean, Planner; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

2. A motion was made and seconded (*Campanello/Dickerson*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 15th day of April 2021 be approved as read. Mr. Hesser noted there were two corrections needed, and the first one was on page 2. He stated Mr. Norman did not vote on the first petition so, it should read Yes: 4 not Yes: 5. He continued the second correction is at the bottom of page 17, the word continuous is spelled incorrectly. The motion was carried with a unanimous roll call vote.

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

4. The application of ***Patrick M. Regan & Margaret M. Mitzel, Husband & Wife*** for a Special Use for a ground-mounted solar array on property located on the West side of Winding Waters Ln., 980 ft. South of Roseland Rd., 3,090 ft. West of SR 19, common address of 51697 Winding Waters Ln. in Osolo 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-0253-2021*.

There were 22 neighboring property owners notified of this request.

Glen Miller, Advanced Solar, 474 W. Levi Lee, Warsaw, was present as the contractor for the petitioner. Mr. Campanello asked where the solar array was going to be placed as he didn't see the location on the site plan. Mr. Glen Miller responded it was in line with the curb of the driveway, about half way to the road.

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** Brian Dickerson 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 3/23/2021 and as represented in the Special Use application.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser

5. The application of *Ferman & Rachel Bontrager (Buyers) & Wayne R. Nisley & Marilyn A. Nisley, Husband & Wife (Sellers)* for a Special Use for a school on property located on the East side of CR 43, 1,360 ft. North of CR 42, common address of 00000 CR 43 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-0265-2021*.

There were six neighboring property owners notified of this request.

Ferman Bontrager, 66365 E. County Line Rd., Middlebury, was present. Mr. Bontrager stated he wanted approval for a Special Use for a new school house.

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** 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 3/25/2021 and as represented in the Special Use application.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

6. The application of *Caine J. Espinoza & Melanie A. Espinoza, Husband & Wife* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on property located on the Northwest side of Spring Creek Trl., 430 ft. North of Spring River Dr., East of CR 13, common address of 23303 Spring Creek Trl. in Concord Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0270-2021*.

There were 27 neighboring property owners notified of this request.

Caine Espinoza, 23303 Spring Creek Trail, Elkhart, was present. Mr. Espinoza explained he is looking to get a few chickens to have eggs at home. Mr. Miller asked if the chicken coop will be closed in at all times, and Mr. Espinoza responded it will be fenced in to contain the chickens. He added there is also a run for the coop that will house the chickens at night time. Mr. Miller

asked about waste disposal. Mr. Espinoza responded he is looking at composting and using a layer system to spread on the vegetable garden. Mr. Hesser clarified there are no covenants in the subdivision.

Robyn Radford, 58704 Runway Rd., Elkhart was present in remonstrance. Mrs. Radford explained where her property was located in respect to the subject property. She then went on to say she is in opposition to this request due to the tight residential area. She added someone in the neighborhood has a rooster, and it is disruptive. She continued saying she is concerned with the smell and the waste disposal being close to her property as she will be downwind from the chickens. She stressed this will impact their quality of life.

Caine Espinoza came back on to address the concerns. He addressed the waste issue stating, again the concept is to compost the waste, and it will be very contained as he has done a lot of research online. He continued saying the chicken coop will be much closer to his home than the neighbor's home. He stressed he will have no roosters, they just want chickens for eggs. The public hearing was closed at this time.

Mr. Miller stated the Board generally allows chickens in residential areas that don't have covenants. Mr. Hesser noted Staff recommended approval for more chickens than what is being asked for on the application. Mr. Norman stated the distance from the coop to fence, and the coop to house is substantial. Attorney Kolbus explained if there is a concern about smell the Board could impose a condition of a period of time just to make sure there aren't any issues. Mr. Hesser asked Mrs. Radford if there was an additional concern that she had. Mrs. Radford responded her question is that if the chickens do create a smell what is the recourse for the people who live in the neighborhood. Mr. Hesser explained that if the petitioner violates the conditions then she can put in a complaint with the Planning Department. It was discussed that smell isn't necessarily something that can be regulated as a condition. Mr. Hesser explained that if the Board approves the request for a period of time, when it comes back up for review then the smell can be evaluated at that time. Mr. Campanello stated he is for this request. Mr. Dickerson explained the City of Goshen had a movement of urban chickens, and there haven't been any complaints about smell, or negative feedback. Mr. Miller stressed the Board has approved residential chickens before. Mr. Dickerson explained there is normally only negative feedback for large farms near cities and residential areas.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Brian Dickerson that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following condition imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted 3/30/2021 and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens at any one time, no roosters.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

7. The application of *Chanty Long & Sao Man M. Long, Husband & Wife* for a Special Use for a ground-mounted solar array on property located on the North side of US 20, 845 ft. West of CR 16, common address of 13793 US Highway 20 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-0307-2021*.

There were eight neighboring property owners notified of this request.

Isaac Reed, 800 Heritage Drive, Middlebury, was present as the general contractor for the petitioner. Mr. Reed explained the solar array will be installed behind the house in the garden where it is secluded and won't cause any problems. He continued to say he spoke to the neighbors and the church, and no one expressed any issues with this request.

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** 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 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 4/8/2021 and as represented in the Special Use application.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

8. As a Staff Item, Mr. Auvil presented a minor change request for *Hickory Hollow School* (SUP-0115-2021). He stated the request is to amend an approved site plan to move the barn 25 ft. west from the approved location to create further distance from the maximum well radius. He explained the Zoning Ordinance requires Board approval any time a building moves closer to the road. He continued saying Staff recommends approval of this minor change request, as it is a good idea to move the barn further away from a well.

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 approve the revised site plan submitted 05/17/2021.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

9. The application of **Matthew R. Gable & Robyn M. Gable, Husband & Wife** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on property located on the Northeast corner of Alex Ln. & Christopher Ln., 630 ft. West of Meadow Glen Dr., common address of 30573 Alex Ln. in Baugo Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0310-2021*.

There were 26 neighboring property owners notified of this request.

Mathew Gabel, 30573 Alex Ln., Elkhart, was present. Mr. Gabel stated his children want the chickens for 4-H and to provide eggs for his family and the neighbors. Mr. Gabel continued saying he has spoken to his neighbors and many have been excited to see the chickens, as it is something different in the area. Mr. Campanello asked about waste, and Mr. Gabel responded the waste all goes into the ground as fertilizer. Mr. Gabel continued to explain the chickens run around in a fenced in back yard, and they pick up a lot of the waste to dispose of in trash bags.

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** Tony Campanello, **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 an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following condition imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted 4/12/2021 and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens at any one time, no roosters.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

10. The application of **Levi & Katie Miller Revocable Trust (Land Contract Holders) & Joe Miller & Alma Miller, Husband & Wife (Land Contract Purchasers)** for a Special Use for a home workshop/business for a bed and breakfast on property located on the West side of CR 9, 2,235 ft. South of CR 50, common address of 70951 CR 9 in Union 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-0299-2021*.

There were five neighboring property owners notified of this request.

Joe Miller, 70951 CR 9, Nappanee, was present. Mr. Joe Miller explained they are wanting a single room bed and breakfast in the facilities he currently has on his property. Mr. Norman

asked about the revised site plan. Mr. Hesser clarified the revised site plan needs the setbacks. Mr. Joe Miller responded he could do that, absolutely. Mr. Hesser explained with a home workshop, he is limited to a 4 sq. ft. sign that also needed to be on the site plan.

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** Tony Campanello, **Seconded by** Brian Dickerson 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 bed and breakfast be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. The petitioner must provide a revised site plan showing the setbacks and sign dimensions for approval by Staff.

The following commitment was imposed:

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

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

11. The application of *Richard A. Zimmerman & Sheila M. Zimmerman, Husband & Wife* for an Amendment to an existing Special Use for an agricultural business to allow for a revised site plan on property located on the Northeast corner of CR 38 & CR 35, common address of 13679 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-0274-2021*.

There were 17 neighboring property owners notified of this request.

Jerod Yoder, Kauffman Construction, 16206 CR 40, Goshen, general contractor for the petitioner was present. Mr. Yoder explained they are looking to remodel the office, and add an office addition, including a break room and a men's restroom. He stressed there will not be new hires, just making the building better. Mr. Hesser clarified the only change is the addition, and Mr. Yoder responded correct. Mr. Miller asked if semis have the ability to turn around in the driveway. Mr. Yoder responded yes, the flow of traffic will remain the same as the business isn't expanding, just making things work better than they are now.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello asked Staff to clarify the request. Mr. Auvil responded it is a site plan amendment for the new addition

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Brian Dickerson that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon

these, further moved that this request for an Amendment to an existing Special Use for an agricultural business to allow for a revised site plan be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted 3/30/2021 and as represented in the Special Use Amendment.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

12. The application of *Tri-County Trustee Corporation (Land Contract Holder) & Nelson Yoder (Land Contract Purchaser)* for a Special Use for a home workshop/business for an electrical business, for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2), and for a Developmental Variance to allow the total square footage of accessory structures to exceed that allow by right on property located on the South side of CR 4, 3,970 ft. East of SR 13, common address of 10396 CR 4 in York 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-0303-2021*.

There were 10 neighboring property owners notified of this request.

Rob Yoder, Lehman Construction, 7740 W. State Rd. 120, Shipshewana, LaGrange Co., was present for the petitioner. Mr. Yoder stated they are looking to have the proposed building be constructed as a warehouse with a couple offices, and they have been operating since 2017. He explained that there was a fire, so it was decided to remove the building and rebuild right away. He continued saying this will help clean up the property and allow for more storage for trailers at the end of day. Mr. Hesser asked if work is done on site. Mr. Yoder responded no, the building will house inventory. He clarified workers will come in, load up the trucks, and go to the job site. Mr. Hesser asked why the building can't be constructed without a Developmental Variance. Mr. Yoder responded the need for additional accessory storage is over that which is allowed by right to ensure there is no outside storage.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello stated this property is getting cleaned up after the fire.

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 home workshop/business for an electrical 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted 4/8/2021 and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for 4 outside employees (Ordinance allows 2) and a Developmental Variance to allow the total square footage of accessory structures to exceed that allow by right 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 4/8/2021 and as represented in the Developmental Variance application.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

13. The application of *Michael D. Getz (Buyer), Wayne Ross (Deceased), & Jane Alice Sawyer (Sellers)* for a Use Variance for an auction house on property located on the East side of Washington St., 450 ft. of CR 40 (Waterford St.), common address of 200 N. Washington St. in Olive 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-0314-2021*.

There were 17 neighboring property owners notified of this request.

Mr. Hesser stated there is a request to table this petition. Mr. Miller explained they don't have to accept the motion to table and can move to deny.

Bill Davis, Davis & Roose, 116 E. Clinton St., was present representing Mr. Getz. Mr. Davis explained he is seeking a continuance to do more research on the property and the regulations on the property. He continued saying the research is to find out why the property is zoned R-2 when there was a Comprehensive Plan for Wakarusa that at one point had a different classification for this property. He stressed the continuance was also to have more time for Mr. Getz to refine the plan and be prepared to answer questions raised by Staff and neighbors.

Mathew Schlabach, 203 N. Washington St., Wakarusa, was present in remonstrance. Mr. Schlabach explained adding a parking lot in this area will cause more flooding. He continued saying this area is the lowest point from town square, 3 ft. lower, and last Sunday with rain the creek was close to flowing over. He stressed the water will run over the street, under the fence, and he has personally gone to the subject building when it has flooded in past due to the water issues in this area. He stated he is all about progress, but not for things that will hurt property values. He added too much commercial is already happening there. Mr. Norman clarified where his property was located on aerial. Mr. Schlabach explained he has had up to 2 feet of water on his driveway, because it flows across the 5 foot culvert. He noted the water flows over the street and onto the nursing home property. Mr. Norman clarified where the nursing home is located and where the water flows when it rains. Mr. Schlabach continued saying that water comes from the church parking lot down the street because it has nowhere to go.

Holly Landis, 100 W. Waterford St., Wakarusa, representing the Town of Wakarusa, was present in remonstrance. Mrs. Landis explained she has met with the Getz's and asked them to bring their project to the Board and talk to the neighbors. She stated the Town's concern is the neighbors don't understand exactly what is being proposed with this project. She added parking is a concern to the Town as well, due to the flooding issues. She pointed out the parking area is in grass. She continued saying that a conversation with the church for permission to use their parking lot hasn't happened either. She stressed the Town is concerned about the details that haven't been discussed.

Mr. Hesser clarified with Mr. Davis that the petitioners want to table this request until the June meeting. Mr. Hesser explained that if Mr. Davis is to submit additional material that deadline is coming up quickly. Mr. Godleski explained additional information has to be submitted and into the file 10 days prior to the meeting for the packets that are mailed out to Board members and access for the public to look over materials prior to the meeting. He continued saying that the petition will be advertised without the material but at least it will be in the file before the meeting. It was clarified that the next meeting is June 17, 2021. Mr. Davis clarified that June 7, 2021 is the deadline for submitting the new material.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Ron Norman that this request for a Use Variance for an auction house be tabled until the June 17, 2021, Advisory Board of Zoning Appeals meeting at the request of the petitioner.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman, Randy Hesser.

14. The application of *David Overholt & Lynda Overholt, Husband & Wife* for a Special Use for a mobile home park on property located on the West side of an unnamed right-of-way, 1,925 ft. South of State Line Rd., West of CR 17, common address of 21820 State Line Rd. in Washington 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-0197-2021*.

There were no neighboring property owners notified of this request.

Lynda Overholt, 21820 State Line Rd., Bristol, was present. Mrs. Overholt explained the request is to move her step son and daughter's mother's home between their trailers on the property due to the mother being an invalid, technically blind, and unable to drive. She continued saying there is an existing septic where the home will be located, but will be inspected upon approval. Mr. Hesser clarified where the septic was located. He questioned if one septic serves all of the homes. Mrs. Overholt responded no, the daughter has her own along with the son, but inspections are needed. Mr. Miller stated testimony was given that 5 mobile homes are already on the property. Mrs. Overholt responded no, there is just her's, her husband's daughter's, and his son's, and there is no intention of moving anyone else back there. She stressed this is just to allow the son and daughter to take care of their mother. Mr. Norman asked about the barn and fathers house not being a part of the subject property. Mrs. Overholt responded her home is on 35 acres, by itself. She continued saying down the lane there's room between the daughter and son's houses for this new mobile home, and then around the corner where the barn is, that's where her home is located with

their own septic. Mr. Miller clarified currently there is a modular, a trailer, and her home that is all on the property. Mrs. Overholt responded the daughter's house is on the site plan as "the Sister's house", and the new home will be put in between son and daughter's house due to existing septic. Mr. Miller stated an issue of road frontage on the property. Mrs. Overholt responded no additional traffic will be coming in and out because the mother can't drive. Mr. Hesser asked about if access is through an easement. Mrs. Overholt responded yes, it is an easement, and it's the only access to the property. Mr. Dean clarified it is set up as a right-of-way. Mr. Norman questioned entrances to other parts of property. Mr. Hesser asked if Staff is satisfied with the site plan. Mr. Auvil responded he hasn't looked at this because it wasn't in his packet, though he doesn't recall any concerns. He continued saying Staff is satisfied, and it's just for one more trailer, not a mobile home park. Mr. Campanello asked about upon the death of the person occupying the trailer if the trailer, should move off the property. Mrs. Overholt responded the agreement is that once the mother passes that either the daughter or son will move into the deceased home, and their home will get taken down. Mr. Campanello stated the concern is leaving a mobile home empty on the property. Mr. Auvil clarified they would need approval for more mobile homes to be placed on the property, and Environmental Health may still say no as well. Mr. Dickerson reiterated that even if it is approved today, it could get denied through Environmental Health. Mr. Miller clarified there isn't a concern about the easement as access to property. Mr. Auvil explained this particular access to the property is a mixture of right-of-way and easement so it is not a concern. Mr. Hesser clarified there is no Developmental Variance requirement for the easement. Mr. Miller stated a commitment could be added requiring the other mobile home be taken down. Mr. Auvil stressed this request is limited to 3 mobile homes due to the site plan, and no more could be put on without approval. Attorney Kolbus explained that the main house is on separate parcel of property, so it is not included in this application. Mr. Dickerson asked if the other structures, the trailer and modular, on the property were approved prior to the permit. Mr. Auvil responded he wasn't sure, but if the structures were established prior to 2015 with the new Zoning Ordinance, it would be conforming or non-conforming structures so it wouldn't matter. Mr. Godleski clarified no complaints were made about mobile homes prior to this request. Mr. Miller asked if the mobile homes can get replace. Mr. Auvil responded yes, they can be replaced, but mobile homes are viewed as temporary and don't last long.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello stated he has no issues except for the mobile home being replaced. Mr. Hesser added his concern is that the trailers will be replaced and stay forever. Mr. Godleski clarified approval would allow three mobile homes, not a whole park. Mr. Hesser stressed the site plan doesn't show driveways or access. Mr. Campanello stated there should be a condition that if one mobile home is removed then another one can't be put back in its place. Attorney Kolbus explained there could be a time frame tied to the lifetime of the occupant. Mr. Hesser clarified the petitioner's testimony is now on record. Mr. Norman stated the site plan doesn't show any road frontage, and it is unclear if it is a property line or a road. He continued there isn't a road access, the access is to another property, which is his concern with no road frontage. Mr. Miller explained the concern of the remonstrators is no road frontage. The access was confirmed to be State Line Road right-of-way, not an easement. Mr. Campanello stated if they don't want a mobile home park, a commitment can be added that the mobile home be removed after the occupant is deceased.

Mr. Hesser explained he will vote no, because he isn't comfortable with access, the site plan, and when the trailers will be moved on and off the property. He added to approve with no conditions or restricts isn't acceptable. Mr. Miller agreed with Mr. Hesser. Mr. Auvil stressed it is a 35 acre parcel, and the access shouldn't be a concern. He went on to say it isn't a concern to Staff, the site plan is just for 3 mobile homes in a low density area, and for years the County has allowed mobile homes for handicap relatives. Mr. Hesser responded he disagrees with that statement.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Brian Dickerson 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 park be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. The petitioner must provide a revised site plan showing all property lines, right-of-way, existing and proposed buildings, and setbacks for approval by Staff.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted for Staff approval, the petitioner's testimony, and as represented in the Special Use application.
2. The use is limited to three (3) homes (mobile/manufactured).
3. A mobile or manufactured home will be removed from the property once the occupant no longer occupies it and no other mobile or manufactured home will be brought onto the property to replace it at that time.

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

Yes: Brian Dickerson, Tony Campanello, Roger Miller, Ron Norman.

No: Randy Hesser.

14. The meeting was adjourned at 10:05 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary