

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21st DAY OF JULY 2022 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION 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; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Roger Miller, Ron Norman, Randy Hesser, David Miller.

Absent: Deb Cramer, Steve Warner.

2. A motion was made and seconded (*Norman/Roger Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 16th day of June 2022 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Norman/Roger 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 *Samuel Lund & Tasha S. Garcia, Husband & Wife* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres located on the North side of Fox Run Trl., 480 ft. West of CR 1, common address of 30089 Fox Run Trl. in Cleveland 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-0450-2022*.

There were 21 neighboring property owners notified of this request.

Tasha Garcia, 30089 Fox Run Trail, Granger, was present for this petition. She stated she is asking for 6 egg-laying hens so they can be more organic, using natural resources. She went on to say she used to keep the hens on her friend's property, down the road, but the hens kept getting out and killed.

Dennis Flora, 30019 Fox Run Trail, Granger, was present in remonstrance. He stated he is opposed to the chickens because Fox Run Trail is a dead-end street with homes on less than 1 acre of land. He explained the petitioner has a pool in the back yard and now they want to add chickens, when they already have 2 dogs, one of those dogs is a wolf-hybrid. He stressed the dogs bark all night. He continued saying he has done research about the chickens and found that they will get diseases, poop all night long, the poop will get into their water, roosters crow before dawn, and will crow until dusk. Mr. Roger Miller explained roosters aren't allowed. Mr. Flora asked if the chickens are allowed in this residential area. Mr. Roger Miller responded yes they are allowed. Mr. Hesser clarified the chickens are allowed if this petition gets approved. He then clarified where Mr. Flora lives on the aerial. Mr. Flora stated the petitioners have other properties in the county that will be more suitable for raising chickens. He submitted a petition signed by 5 neighbors in

remonstrance to this petition *[Attached to file as Remonstrator Exhibit #1]*. Mr. Hesser asked if there are restrictive covenants in this neighborhood. Mr. Flora responded there were originally, but the Home Owners Association has since been disbanded.

Ernest McDonald, 51982 Copperfield CT, Granger, was present in remonstrance. He stated the shed that is being proposed is approximately 13 feet from his property line. He explained there are 5 dogs, not 2 dogs, and which is an issue when he walks his dogs. He continued to say he doesn't believe that a fixed fence can be placed 3 feet from his property line, and this will impact his property value. He stressed his concern is the smells, sounds, and the mess from the chickens.

Mr. Flora came back on. He stated back in the 1940's and 1950's his grandparents lived in Wakarusa, and they had 100 chickens every year, and he knows those chickens had poop coming out of them every day, all over. Mr. Roger Miller stated this needs to pertain to the 6 chickens on the subject property. Mr. Flora stressed that chickens are messy, dirty, and stinky.

Mrs. Garcia came back on. She stated there is no Home Owners Association, and they aren't asking to put a permanent fence in, as it will be a moveable fence. Mr. Roger Miller asked if the chickens will be out on the loose or contained. Mrs. Garcia responded the chickens will be contained in a coop, with no roosters. She stated she is certified with DNR so she knows the rules of animals. She continued saying the chickens will lay around 300 eggs each per year for her family and friends to eat. Mr. Norman asked if the coop will be moved around the yard for feedings. Mrs. Garcia responded they will feed the chickens organic chicken feed and meal worms, but the coop is short and moveable if needed. Mr. Roger Miller asked what will happen with the waste. Mrs. Garcia responded they will rake up the saw dust and waste and dispose on their friend's farm. She stressed their chickens don't have diseases.

The public hearing was closed at this time.

Mr. Roger Miller stated he is not against approving this as long as the chickens are confined in the coop and limited to 6 chickens.

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 an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for Staff approval showing the shed and chicken coop out of the rear utility easement.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for Staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of six (6) chickens, and no roosters.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

5. The application of *Spa, Inc.* for a Special Use renewal for a transitional living facility for women on property located on the North side of US 20, 890 ft. West of CR 15, common address of 23269 Old US 20 in Concord Township, zoned R-4, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0445-2022*.

There were 20 neighboring property owners notified of this request.

Kerri Zickafoose, Director of SPA, Inc., 23269 Old US 20, Elkhart, was present for this petition. She stated she wants to clarify that they have 2 properties, 23269 Old US 20 and 23221 Old US 20 now addressed as 3404 Toledo Rd., and the Special Use application is to allow 20 people for the 2 properties, though the one property, 3404 Toledo Rd., was annexed into the City of Elkhart. She continued to say now they want this petition to be for up to 10 women at the 23269 Old US 20 property because that one is still in Elkhart County. Mr. Hesser asked if they were approved with a time limit in the city. Mrs. Zickafoose responded that there is no expiration date. Mr. Roger Miller asked how many people were approved on the city property. Mrs. Zickafoose responded they were approved for up to 20 women. She went on to say they call the city property their SPA House and the subject property for this petition they are calling the HOPE House. Mr. Hesser asked why the city didn't annex both properties. Mrs. Zickafoose responded when they were adding the addition it was annexed into the city because it was going to be a 20 bedroom home and needed the use of city utilities, and the subject property is on septic, which financially made sense for them. Mr. Roger Miller clarified if this is approved, it is for 10 women and the other property is approved for 20 women. She stressed the use of the property hasn't changed, but the annexation caused some issues. Mr. Hesser asked what services are provided on site. Mrs. Zickafoose responded they provide price centered, residential treatment to women struggling with addiction. She continued to say the SPA House is the first phase of the treatment who are newly coming into the program and they stay for 6 months. She further explained that after they stay in the SPA house, they transition into the HOPE House, which that is a true transitional living center. She went on to say at this point the ladies are going to school, working, and are learning to baby-step their way back into the community. Mr. Roger Miller asked if these women are voluntarily joining or if they are court ordered. Mrs. Zickafoose responded they are mainly voluntary, but sometimes the courts will order the women to join a treatment center, and SPA, Inc. will let the courts know if a woman chooses to leave prior to finishing the program.

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 renewal for a transitional living facility for women 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 (6/2/2022) and as represented in the Special Use application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

6. The application of *Miles L. Smith & Kayla N. Carpenter* for a Special Use for a home workshop/business for laser engraving, gunsmithing, and the sale of firearms on property located on the Northwest corner of CR 23 & Detweiler Dr., 380 ft. South of CR 18, common address of 58071 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-0469-2022*.

There were 23 neighboring property owners notified of this request.

Miles Smith, 58071 CR 23, Goshen, was present for this petition. He stated in the description he tried to be as accurate as possible. He explained he was made aware by ATF that he is not required to have a Special Use for what he wants to do. He went on to say he has spoken with his neighbors and they are aware of what he is doing, and none of them are in opposition. Mr. Hesser asked if his operation was completely inside the house, including ammunition. Mr. Smith responded yes, he is operating from his basement. He continued to say he stores all ammunition and related items in a safe and per the laws, he is the only one with access to that safe. Mr. Roger Miller asked if there is firing on site. Mr. Smith responded no, he doesn't fire at the subject property.

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 home workshop/business for laser engraving, gunsmithing, and the sale of firearms 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 (6/9/2022) and as represented in the Special Use application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

7. The application of *Miller 8 Square Cemetery (Owner/Buyer) & Toby S. Borntrager Trustee & Ruby W. Borntrager Trustee of the Borntrager Family Revocable Living Trust (Sellers)* for a Special Use for an existing cemetery on property located on the North side of CR 126, 810 ft. West of CR 35, common address of 14153 CR 126 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-0479-2022*.

There were 10 neighboring property owners notified of this request.

Merlin Bontrager, Treasure of the Cemetery Board, 13405 CR 28, Middlebury, was present for this petition. He stated they are asking for another acre of land for the cemetery, as people are born and people die. Mr. Hesser clarified this was never approved as a Special Use for a cemetery. Mr. Borntrager stated the records show this has been a cemetery since 1926. Mr. Hesser clarified the whole area, shown on the aerial, is a cemetery.

Lavon Yoder, 60157 CR 35, Middlebury, was present in favor of this request. He stated they are asking to be able to enlarge the cemetery to increase the amount of plots available.

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 an existing cemetery 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 (6/10/2022) and as represented in the Special Use application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

8. The application of *Clearview United Brethren Church* for an Amendment to an existing Special Use for a place of worship to allow for a pavilion on property located on the Northeast side of US 33, 945 ft. Southeast of CR 31, common address of 67622 US 33 in Benton 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-0481-2022*.

There were 17 neighboring property owners notified of this request.

Victor Mojica, 15 Westfield Park, Goshen, was present representing the church. He stated they are requesting to build the pavilion for the church and community to use for outdoor activities.

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** Ron Norman, **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 place of worship to allow for a pavilion 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. A revised site plan must be submitted for Staff approval showing pavilion setbacks.

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 = 4).

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

9. The application of *Aaron R. Hankins & Danielle M. Hankins, Husband & Wife* for a Special Use for a salon on property located on the East side of CR 105, 1,090 ft. North of CR 24, common address of 58140 CR 105 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-0486-2022*.

There were 22 neighboring property owners notified of this request.

Aaron Hankins and Danielle Hankins, 58140 CR 105, were present for this petition. He stated the property will remain residential, as there won't be signs. He continued to say that they are planning on converting their dining room into the salon. He continued to say his wife wants to get away from renting a booth and to minimize the amount of clients she works with. Mr. Roger Miller asked how many customers per day. Mr. Hankins responded it averages to 2 customers a day.

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** Ron Norman, **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 salon 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 (6/13/2022) and as represented in the Special Use application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

10. The application of *Bradley D. Fiandt & Debra A. Fiandt, Husband & Wife* for a Special Use for warehousing of RVs on property located on the West side of CR 127, 1,500 ft. North of SR 4, common address of 61907 CR 127 in Elkhart 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-0487-2022*.

There were 13 neighboring property owners notified of this request.

Jordon Mault, 66147 CR 31, Goshen, was present representing the petitioners. He stated they are storing RVs for the dealers who need to get them off the manufacturer's lots. Mr. Roger Miller asked what kind of surface they are planning on putting down for the RVs. Mr. Mault responded they are just going to leave it as is, which is packed down dirt and grass. Mr. Norman clarified the house and property on the aerial. Mr. Hesser asked if there is a driveway off the north parcel. Mr. Mault responded there isn't a driveway off the north parcel, but there is one on the south side of the property, which runs along the pond. Mr. Hesser stated that it looks like they have to drive through a wooded area to get to the parking area. Mr. Mault explained there are trees, but there is a path already created through the trees. Mr. Hesser clarified the west half of the subject parcel is woods and the eastern half is farming land. Mr. Norman asked how long the RVs will be stored on the property. Mr. Mault responded anywhere between 2 weeks and 3 months. Mr. Norman asked what kind of buffering will be used. Mr. Mault responded the property is covered mostly by trees now, but they will put in more trees if needed so the RVs can't be seen from the road. Mr. Hesser asked what the adjoining property was used for. Mr. Mault responded the owner farms the land and has dairy cows. Mr. Hesser asked if there will be lighting or fencing put on the property. Mr. Mault responded there are trail cams on the property for surveillance. Mr. Roger Miller asked what the quantity of RVs that will be on the property at one time. Mr. Mault responded depending on the size of the RVs, they can hold up to around 75 RVs at one time, no motorized RVs, just towable.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated the site plan is completely unacceptable but he has confidence in the Staff's ability to look at the site plan. He continued to say that he also doesn't like the idea of approving the petition without an approved site plan. Mr. Roger Miller stated he agreed with Mr. Hesser regarding the site plan. Mr. Norman asked if the Board should add to the conditions and commitments. Mr. Mault submitted an updated site plan to the Board *[Attached to file as Petitioner Exhibit #1]*.

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

Motion: Action: Approve, **Moved by** Ron Norman, **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 warehousing of RVs 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. A revised site plan must be submitted for staff approval showing all involved parcels, fully delineating the RV parking area, showing parking area setbacks from property lines, showing how many units will be stored, and showing a correct north arrow.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. Approved for a period of six (6) months; any renewal shall be before the Elkhart County Board of Zoning Appeals.

3. Approved with a limit of twenty-five (25) RVs per acre.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

11. The application of *Union Center Christian School (Buyer) & Union Grove Brethren in Christ Church (Seller)* for a Special Use for a school and a place of worship on property located on the Northwest corner of CR 11 & CR 48, common address of 69954 CR 11 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-0491-2022*.

There were seven neighboring property owners notified of this request.

Terrill Yoder, 19156 CR 48, was present for the petition. He stated for the last 5-6 years the Christian Schools in the area have become full and are no longer accepting new students, which is why they have decided to start up their own school. He continued to say that the existing church will have a 5 year lease to continue to worship on site while they find a new location. Mr. Hesser asked who currently owns the property. Mr. Yoder responded the Union Grove Brethren in Christ Church does. Mr. Hesser asked if this will still operate as a church. Mr. Yoder responded the church is being given the option to continue to worship out of the building, with monthly rent, and the school will operate out of the other parts of the building. It was clarified the school will become the owner as soon as the buying process is complete. Mr. Hesser asked if new buildings are being built. Mr. Yoder responded nothing new at this time, just a lot of cleaning up and restoring the existing buildings.

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** Ron Norman, **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 school and 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 (6/13/2022) and as represented in the Special Use application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

12. The application of *Terry Wuthrich* for a Special Use for warehousing of RVs on property located on the North side of SR 120, 1,560 ft. West of CR 131, 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-0428-2022*.

There were 19 neighboring property owners notified of this request.

Terry Wuthrich, 14177 SR 120, Bristol, was present for this petition. He stated storing of RVs most likely won't happen again for years as the RVs are no longer there, but he would like to use this property as an over flow lot in the future. Mr. Roger Miller explained that this petition has a 6 month limit. Mr. Hesser stated the site plan shows the east side of the property as a designated area for a 3-wide area for the RVs. Mr. Wuthrich responded that is where they were storing RVs for about 3 months before the company backed out of their contract. Mr. Hesser asked if that is the only area for RV storage or if the whole parcel was being used. Mr. Wuthrich responded it is just that area, as the parcel is a wheat field. Mr. Hesser stated there is a dense tree line between the RV parking area and the residential area to the east. Mr. Roger Miller asked if this was for warehousing of RVs or for individuals to store their RVs when they need to have a place to put them. Mr. Wuthrich responded he plans on continuing to farm his land. He went on to say he was going to help store some of the overflowing RVs for manufacturing companies, not individuals, but he doesn't foresee this continuing in the near future. Mr. Norman stated it looks like there is a tree buffer all the way around the property. Mr. Wuthrich explained there are a lot of trees on the property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser clarified the Staff is requesting a revised site plan.

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 warehousing of RVs 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. A revised site plan must be submitted for staff approval showing RV parking area dimensions, parking area setbacks from property lines, how many units will be stored, and how trucks will access and leave the parking area.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. Approved for a period of six (6) months; any renewal shall be before the Elkhart County Board of Zoning Appeals.
3. Approved with a limit of twenty-five (25) RVs per acre.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

13. The application of *Michael Miller* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on

property located on the West side of CR 35, 740 ft. South of CR 2, common address of 51479 CR 35 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-0483-2022*.

There were 15 neighboring property owners notified of this request.

Michael Miller, 51479 CR 35, Bristol, was present for this petition. He stated he wants to add onto the existing garage to allow for more storage for parking cars and storage of the feed for his cow. Mr. Hesser asked if he will have the cow every year. Mr. Miller responded he isn't sure if he get a cow every year or every other year. Mr. Hesser asked if the cow will be in the building. Mr. Miller responded no, there is a building for shelter, but she is not kept in it full time, as there is a fenced in area for her to go in and out of the shelter area. He went on to say that currently the cow is on his niece's property to get some grass grazing in before summer is over.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he would like a revised site plan showing the fenced in area.

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 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 revised site plan showing the fenced in area to be submitted for Staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of one (1) beef cow.

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

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (6/10/2022) and as represented in the Developmental Variance application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

14. The application of *Carlyle Martin & Barbara Martin, Husband & Wife* for a Special Use for a home workshop/business for a post laminating business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on

property located on the South side of CR 40, 1,640 ft. East of CR 9, common address of 25672 CR 40 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0490-2022*.

There were seven neighboring property owners notified of this request.

Wendell Martin, 25672 CR 40, Goshen, was present for this petition. He explained he will take 2 pieces of 2x4 lumber, and then glue and nail them together to make a post. He continued to say it will just be himself as the employee. He stressed he would like to build a new shop, because the old ones are falling down. Mr. Hesser asked Staff if agricultural buildings don't count against personal storage. Mr. Auvil responded that is correct. Mr. Hesser asked if he is taking down the 40 ft. x 28 ft. building. Mr. Martin responded yes, that is the one he wants to demolish, but he can't take it down until the new building is built. Mr. Hesser asked if the demolition should be a requirement. Mr. Dean responded he doesn't believe that the building being demolished was a part of the equation as he believes it is all agricultural and doesn't need to be a requirement. Mr. Norman asked if the post being laminated is treated lumber that is going into the ground. Mr. Martin responded that is correct, unless it is going on top of a concrete wall, because then it isn't necessary. Mr. Norman stated sawdust will be minimal because the lumber is already coming in pre-cut. Mr. Martin stressed the construction of the lumber will vary some, but for the most part it is very little shavings coming off of the cuts.

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 home workshop/business for a post laminating business be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for Staff approval showing the existing 1,430 sq. ft. accessory structure.

The following commitment was imposed:

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

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

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

15. The application of *Micky R. Reese & Julie C. Reese, Husband & Wife* for a Special Use for indoor recreation (pitching lessons) and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the North side of CR 46, 750 ft. East of CR 21, common address of 20063 CR 46 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-0393-2022*.

There were 31 neighboring property owners notified of this request.

Micky Reese, 20063 CR 46, New Paris, was present for this petition. He submitted a packet of photos [Attached to file as *Petitioner Exhibit #1*]. He stated he has been a softball coach for 16 years with Fairfield Youth League, he was an assistant coach for the junior varsity team, he pitched in Los Angeles Class A when he was first married, and he has never played a game of baseball. He continued to say that it is time to retire from coaching, and this is something he would like to do for the girls coming up from 10 year to 12 year old youth groups that are getting ready to head into high school. He went on to say his wife and he are empty nesters, but he would still like to keep giving back to the community and help the girls with their pitching. He asked for clarification on the conditions as he doesn't quite understand them. He went over what the photos were in the packet he submitted. He stressed the neighbors he talked to were all in favor of this petition. He went on to explain that Mrs. Stouder was in remonstrance at the meeting last month, and since then he met with her and she is now okay with this petition as he addressed her concerns. He stressed the actual size of the building will be 32 ft. by 47 ft., and he will end up being 8 sq. ft. over his allowed by right. Mr. Roger Miller clarified he will only have Saturday and Sunday practices and only 3-5 people. Mr. Reese responded it is only one girl at a time but parents are required to be present when he is giving a lesson, and he will only have them on Saturdays and Sundays. Mr. Roger Miller asked about the concern that was made about children running all over the property. Mr. Reese responded he doesn't stop neighboring children from crossing through his woods, but his students will only be inside the practice area with parents in attendance. Mr. Hesser clarified for the record that Mr. Reese was aware of Mrs. Stouder's concerns and he has addressed those concerns. Mr. Hesser stated his only concern was there wasn't a photo of the existing building but noted that Mr. Reese provided that today to the Board.

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** 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 indoor recreation (pitching lessons) 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 (5/16/2022) and as represented in the Special Use application.

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

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (5/16/2022) and as represented in the Developmental Variance application.

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

Yes: David Miller, Ron Norman, Roger Miller, Randy Hesser.

16. The meeting was adjourned at 10:36 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary