

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 15<sup>th</sup> DAY OF SEPTEMBER 2022 AT 9:00 A.M.**  
**MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING**  
**117 N. 2<sup>nd</sup> 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 Don Schull, Attorney for the Board.

**Roll Call.**

**Present:** Deb Cramer, Steve Warner, Randy Hesser, David Miller, Roger Miller.

**Absent:** Ron Norman.

2. A motion was made and seconded (*R. Miller/Warner*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18<sup>th</sup> day of August 2022 be approved as read with the correction on page 2 item #4, the vote should have only been passed by 4 and not 5 due to Deb Cramer had left the Board for that petition. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*R. Miller/Cramer*) 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 *Jerry V. Miller as Trustee of the Jerry V. Miller Trust dated September 3, 2008 & Edna F. Miller as Trustee of the Edna F. Miller Trust dated September 3, 2008* for an Amendment to an existing Special Use for an agricultural use for the keeping of animals to include additional property located on the West side of S. Main St. (SR 13), 465 ft. North of Orpha Dr. (CR37), common address of 719 S. Main St. in Middlebury Township, zoned A-1 & R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0642-2022*.

There were 20 neighboring property owners notified of this request.

Jeremiah Hochstetler, Freedom Builders, 54384 CR 33, Middlebury, was present representing the petitioner. He explained the existing residence and barn has been approved for horses, but the petitioners want to add the 2 parcels to the east. Mr. Hesser asked if the 7.28 acres includes the two new parcels. Mr. Hochstetler responded that is correct. He went on to say that there won't be any new buildings being built. Mr. Roger Miller clarified there won't be an addition to animals on the 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** 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 an agricultural

use for the keeping of animals to include additional property 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 (8/23/2022) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of three (3) adult horses and one (1) cow at any one time.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

5. The application of *Vernon T. Miller & Carolyn Miller, Husband & Wife* for a Special Use for a home workshop/business for a general store and coffee shop, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for an 8 sq. ft. Developmental Variance (Ordinance allows 4 sq. ft.) to allow for a freestanding sign 12 sq. ft. in area on property located on the Northeast corner of CR 37 & CR 2, common address of 51178 CR 37 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-0637-2022*.

There were 10 neighboring property owners notified of this request.

Carolyn Miller, 51178 CR 37, Middlebury, was present for this petition. She stated she was asking permission to put in a store on her property. Mr. Hesser asked what the dimensions of the sign are. Mrs. Miller responded she isn't certain on the exact size, and it isn't necessary to have it that big. Mr. Hesser asked if the sign will be double-sided. Mrs. Miller responded yes. Mr. Hesser asked if there was a need for that large of a sign. Mrs. Miller responded not necessarily, though she doesn't have a sign at this time.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his only concern is the size of the sign and without a reason for it to be that big, then it doesn't need to be bigger than what is allowed by right.

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 general store and coffee shop 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 (8/12/2022) and as represented in the Special Use application.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

**Motion: Action:** Deny, **Moved by** Randy Hesser, **Seconded by** Roger Miller for an 8 sq. ft. Developmental Variance (Ordinance allows 4 sq. ft.) to allow for a freestanding sign 12 sq. ft. in area be denied based on the following Findings and Conclusions of the Board:

1. That strict application of terms of the Zoning Ordinance will not result in an unnecessary hardship in the use of the property.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Deb Cramer 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 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. 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 (8/12/2022) and as represented in the Developmental Variance application.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

6. The application of *Aniceto Portillo* for a Use Variance to allow for the parking of a commercial vehicle (tractor trailer) on property located on the West side of Marie Ct., 200 ft. Southwest of CR 45, common address of 60305 Marie Ct. 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 #UV-0641-2022*.

There were 16 neighboring property owners notified of this request.

Imelda Portillo, 2921 Leana Dr., Goshen, was present for this petition. She stated the trailer and tractor that are currently parked on the subject property, and they want to put gravel down to have them parked there full time. Mr. Hesser asked how they get to their parcel. Mrs. Portillo responded there's an entrance off of CR 45, which is going to be developed into a cul-de-sac. Mr. Hesser asked if there is a house or any buildings currently on the property. Mrs. Portillo responded not at this time, but they plan to build a house in the future. She continued to say her son lives in the house on the south parcel. Mr. Roger Miller asked if the subject parcel is all grass. Mrs. Portillo responded yes, it is all grass right now, but they would put some gravel down. Mr. Hesser asked if this is going to be paved into a cul-de-sac. Mr. Roger Miller asked if they were the ones developing the cul-de-sac. Mrs. Portillo responded no it will be done by the developers. She continued to say they would put up a fence if the neighbors don't want to see the trailer. It was clarified on the aerial where her son lives, and that she doesn't know who lives in the other adjoining residence.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated the Board has never approved these kinds of requests, though these trailers would be parked out of sight. Mr. Roger Miller stated this is a larger parcel than the Board normally sees, and he doesn't see this being a problem for anyone living around the property. He continued to say that if this area gets built up more residential, this could become a problem. Mrs. Cramer stressed the plan is to build this area up residential, which will conflict with this commercial use, if approved.

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

**Motion: Action: Deny, Moved by** Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the parking of a commercial vehicle (tractor trailer) be denied.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

7. The application of *Northland & Reedy, LLC* for a Use Variance to allow for the conversion of an existing residence to an office, for a Use Variance to allow for an electronic message board in an A-1 zone, and for a Developmental Variance to allow for an electronic message board within 300 ft. of a residence on property located on the North side of CR 6, 2,550 ft. West of Jeanwood Dr. (CR 13), common address of 24481 CR 6 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 #UV-0639-2022*.

There were 12 neighboring property owners notified of this request.

Debra Hughes, Surveying and Mapping, LLC, 3220 Southview Dr., Elkhart, was present representing the petitioner. She stated the property was marketed as an industrial property, and the previous owners were in discussions with the company to buy this property. She showed on the aerial where the company owns other properties in the adjacent area. She went on to say that the plan is to repurpose the house as a human resource and training center. Mr. Hesser asked if they will still be using the same building. He then asked if that would make the flood plain less of an issue. Mrs. Hughes responded yes they will use the current building, and that the elevation of the house is higher than the water table and flood plain. Further, she stated they will provide an elevation certificate that would meet requirements for the flood plan. She went on to say they will have to do the required drainage plans, elevation plans, soil and erosion control plan, and grading plan that are required for their development. She stressed they do not plan to build a factory on this property. Mr. Hesser asked what type of businesses the owners have. Mrs. Hughes responded they own manufacturing businesses. She stressed it was recommended that they apply for the Use Variance and not a DPUD at this time. She went on to say that in the future if they decide to do a major development at that time they will need a DPUD. She continued to say that the sign will be within 300 ft. of the house to the east, and over 300 ft. to the house on the west. She submitted a photo of the sign [Attached to file as *Petitioner Exhibit #1*]. Mr. Warner stated that they are stating that there will be low intensity use for the house, but the size of the parking lot says otherwise. Mrs. Hughes responded the intent is to use the garage as an occasional training facility. Therefore, at times,

there will be a group of people in attendance for training. She stressed the daily use is just for the human resource department with approximately 13 employees. Mr. Hesser asked how many parking spaces are being proposed. Mrs. Hughes responded 55 to 60 parking spaces. Mr. Hesser asked if the building is big enough to accommodate that many people. Mrs. Hughes responded no, though they are going to refurbish the garage as the training facility. Mr. Roger Miller asked what the manufacturing uses are currently.

Ron Belchner, 2800 Northland Dr., Elkhart, was present for this petition. He stated both of the facilities to the east of the subject property are for the manufacturing of RV industrial frames for slide outs. Mr. Hesser asked if the sign will be on CR 6. Mr. Belchner responded yes.

Blair Garceau, 63542 Birch Rd., Vandalia, MI. She stated she owns the vacant lot to the west and she has no issues with this request.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Roger Miller stated there is no change to the land. Mr. Hesser explained they will repurpose the garage and put in a parking lot. Mr. Roger Miller stressed they are not putting anything on the lot for heavy manufacturing. Mr. Hesser stated to his understanding is this is limited to the use being asked for in the petition.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the conversion of an existing residence to an office, for a Use Variance to allow for an electronic message board in an A-1 zone be approved

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

**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 Developmental Variance to allow for an electronic message board within 300 ft. of a residence be approved with the following conditions imposed:

1. Variances from the developmental standards of the Zoning Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the site plan submitted (8/12/2022) and as represented in the Use Variance application.

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

**Yes:** Deb Cramer, Steve Warner, David Miller, Roger Miller, Randy Hesser.

8. The meeting was adjourned at 9:32 a.m.

Respectfully submitted,

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Danielle Richards, Recording Secretary

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Randy Hesser, Chairman

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Ron Norman, Secretary