

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19th DAY OF JANUARY 2023 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; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

Absent: Steve Warner, David Miller.

2. A motion was made and seconded (*Miller/Norman*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 15th day of December 2022 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/Norman*) 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. A motion was made and seconded (*Norman/Cramer*) to elect the following Board member: Randy Hesser as Chairman.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

A motion was made and seconded (*Norman/Cramer*) to elect the following Board member: Roger Miller as Vice Chairman.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

A motion was made and seconded (*Hesser/Cramer*) to elect the following Board member: Ron Norman as Secretary.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

****It should be noted that Mr. Hesser recused himself and stepped down****

5. The application of *Association for the Disabled of Elkhart County, Inc.* for an Amendment to an existing Special Use for a social service establishment to allow for an electronic message board on property located on the South side of SR 120, 1,655 ft. Northeast of CR 21, common address of 19670 SR 120 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-0881-2022*.

There were 19 neighboring property owners notified of this request.

Steven Tucker, US Signcrafters, 216 Lincolnway East, Osceola, was present representing the petitioner. He stated the petitioners have a café area, and they would like to have an electronic message board in order to display specials and events. He went on to say the sign will be 4 ft. by 6 ft., and the sign will only be visible after people have turned onto the property's driveway.

Douglas Mick, 3362 Bridgetown Rd., Bristol, and Ruth Carlson, 3346 Bridgetown Rd., Bristol, were present representing the Bayridge community in remonstrance. He stated they are concerned about the placement of the sign. He went on to say there are homes across from ADEC where the lighting of the sign could affect the families living there. Mr. Norman explained that the sign will be placed on the property to be seen from the eastbound lane of traffic running parallel to the road. He stressed that the neighborhood across the street is to the north, and they shouldn't be able to see the sign from that location. Mrs. Carlson stated that was their concern because they didn't know what direction the sign would face.

Steven Tucker came back on. He stated it will be a wall mounted sign and will be concealed from the neighborhood. Mrs. Cramer asked how many feet from the road the sign will be. Mr. Tucker responded he isn't sure exactly, though it will be further away than the current sign. Mr. Dean stated it will be well over 300 feet away from the road.

The public hearing was closed at this time.

Mrs. Cramer stated she can understand the confusion, but the placement of the sign won't disturb anyone.

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

Motion: Action: Approve, **Moved by** Roger Miller, **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 an Amendment to an existing Special Use for a social service establishment to allow for an electronic message board 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 (12/9/2022) and as represented in the Special Use Amendment application.

Vote: Motion passed (**summary:** Yes = 3, No = 0, Abstain = 1).

Yes: Deb Cramer, Ron Norman, Roger Miller.

Abstain: Randy Hesser.

*****It should be noted that Mr. Hesser returned to the Board at this time*****

6. The application of ***April Taylor (Buyer) & Choopa Lou LLC (Seller)*** 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 South side of North Bend Dr., 935 ft. East of CR 23, common address of 307 North Bend Dr. in Washington 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-0886-2022*.

There were 17 neighboring property owners notified of this request.

April Taylor and Mathew McCloud, 307 North Bend Dr., Bristol, were present for this petition. He stated they would like to move their chickens from their old house to their new house. He went on to say they keep the chicken for eggs, and they are thinking about putting their son in 4-H. He explained he just needs to get his fence up in the back yard, if they are approved to have the chickens. Mr. Hesser asked if they planned on having more than six chickens. Mr. McCloud responded no. Mrs. Taylor explained they were only allowed to have six chickens where they are moving from. Further, she stressed they don't own roosters as the hens are for eggs. Mrs. Cramer asked if there is a Home Owners Association. Mrs. Taylor responded they are in one. She continued to say they went to all of their neighbors, and none of them had any issues with them having chickens. She then submitted the signatures of approval from their neighbors *[Placed in file as Petitioner's Exhibit #1]*.

Bob Folley, 1208 North Division St., Bristol, was present in remonstrance. He stated he owns all the property behind the subject property. He explained he would like to know if they will be putting in new fencing, so the chickens will be contained. He stated he isn't against the chickens, but they could get through the current fence he has in place. He stressed as long as there are no roosters he is fine with this request.

Mr. Taylor came back on to respond. He stated he was already planning on putting up a new fence to keep the chickens on his property. Mr. Hesser clarified it would be chicken wire fencing. Mr. Norman asked if he is in the Town of Bristol's jurisdiction. Mr. Taylor responded yes.

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 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 (12/12/2022) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens, no roosters.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

7. The application of **Darin J. Schlabach & Regina R. Schlabach, Husband & Wife** for a Special Use for a home workshop/business for a well drilling business, for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2), 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 40, 2,140 ft. East of CR 43, common address of 10587 CR 40 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-0853-2022*.

There were five neighboring property owners notified of this request.

James Letstone, Eden Creek Builders, 0280 W. 700 S., Wolcottville, and Darin Schlabach 10587 CR 40, Millersburg, were present for this petition. Mr. Letstone explained they want to put up a building for equipment storage in order to get equipment out of the weather, as well as a small office space. Mr. Hesser asked what they have been doing up to this point. Mr. Schlabach responded he has been storing everything outside and then renting a building a mile down the road during the winter. Mr. Hesser asked what the hours of operation will be. Mr. Schlabach responded he would work 6 am to 2 pm. Mrs. Cramer asked if the office will be in the proposed building. Mr. Schlabach responded yes.

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 a home workshop/business for a well drilling 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 (11/16/2022) and as represented in the Special Use application.

Further, the motion also included that for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2), and 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 (11/16/2022) and as represented in the Developmental Variance application.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

8. As a Staff item, Mr. Auvil presented a minor change request for **Board of Commissioners of the County of Elkhart Indiana** (SUP-0744-2022) the request is to increase the proposed sign size.

Mr. Hesser asked if there is a range that changes can go up to before it becomes a major change. Mr. Auvil responded generally in these situations for a minor request the Board could

deem it not a minor change which would mean the petitioner would have to file for a Special Use Amendment. Mr. Hesser asked if there is a percentage cap to these changes. Mr. Auvil responded not really for a sign, though for a building there is.

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 approve the request as a minor change.

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

Yes: Deb Cramer, Ron Norman, Roger Miller, Randy Hesser.

9. The meeting was adjourned at 9:25 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary