

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 18<sup>th</sup> DAY OF JANUARY 2024 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: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Adam Coleson, Planner; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present:** Deb Cramer, Steve Warner, Randy Hesser, Ron Norman, John Gardner.

**Absent:** Roger Miller.

2. A motion was made and seconded (*Norman/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21<sup>st</sup> day of December 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Norman/Warner*) 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 = 5).

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

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

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

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

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

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

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

5. The application of *Legacy Builders LLC* for a Special Use for warehousing for a flatwork and construction business and for a 22 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing building 98 ft. from the centerline of the right-of-way on property located on the South side of SR 120, 1,080 ft. West of SR 13, common address of 11482 SR 120 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-0805-2023*.

There were 6 neighboring property owners notified of this request.

Mr. Hesser noted that the property looked small and asked for clarification as to if it is currently 6 acres.

David Miller, 53800 CR 37, Middlebury, was present for the request. Mr. Miller stated that he has a concrete flatwork company and currently leases a building in White Pigeon Michigan. He stated he would like to move the business location closer to his home to store trailers, trucks, and equipment to protect them from inclement weather. Mr. Hesser asked if Mr. Miller owned or rented the parcel. Mr. Miller responded that he owns Legacy Buildings, which is a separate entity from W.M. Miller Concrete. He stated that W.M. Miller Concrete will lease the property to Legacy Buildings. Mr. Hesser asked for the exact acreage of the parcel. Mr. Miller stated that the parcel is 6.52 acres. Mr. Auvil clarified that the property is made up of four separate parcels and showed the Board the property outline on an aerial. Mr. Kolbus clarified that the property under review is not just the single parcel with the listed address. He went on to say the property also includes the 3 adjacent parcels. He noted that all parcel numbers are listed in the Staff Report. Attorney Kolbus noted that the reference in the Staff Report should be SR 13, not 14. Mr. Miller asked if he were to rezone the property from A-1 to M-1 would the property still need a Minor Subdivision. Mr. Auvil responded yes. Mr. Miller stated he would like to continue with the current petition request. He asked if the Board would allow him to commence building while he works on finalizing the Minor Subdivision paperwork and requirements. Mrs. Kratzer said this board can't grant that, but Staff can talk with Mr. Miller after the hearing. Mr. Hesser asked why a minor subdivision is required. Mr. Auvil stated the property was split not following the subdivision ordinance.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser noted SR 14 listed in the Staff Report should be corrected to SR 13. He asked if any other corrections were needed. Mrs. Kratzer stated that nothing else changed.

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 warehousing for a flatwork and construction 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 corrected deed is required omitting the parcel of land that was sold off to the south.
3. A minor subdivision is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted 12/4/2023 and as represented in the Special Use application.

Further, the motion also included that a 22 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing building 98 ft. from the centerline of the right-of-way 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 12/4/2023 and as represented in the Developmental Variance application.

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

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

6. The application of *New Paris Conservancy District* for a Use Variance to allow for a ground mounted solar array on property located on the Northeast corner of CR 29 and CR 25, common address of 18121 CR 29 in Jackson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0817-2023*.

There were 6 neighboring property owners notified of this request.

Rebecca Mitschelen, Solar Energy Systems, 8015 W 1350 N, Nappanee, was present for the petition. She stated they want to install ground mounted solar arrays on west side of the property. She added the solar array setbacks are within County Ordinance requirements. She went on to say this petition is for a Use Variance due to the size of the system. She said all power generated will stay on site, and the site uses a lot of power. She added there is an existing solar array that powers the administrative building. She explained, if granted, the solar system requested in this Use Variance will power a separate building on the far east side of the property. Mr. Hesser asked if the entire facility will be solar powered. Mrs. Mitschelen responded no. Mr. Hesser asked what percent of the overall power for the facility will be generated by solar. Mrs. Mitschelen responded 80 percent.

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** 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 a ground mounted solar array 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 new legal description of the property is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted 12/18/2023 and as represented in the Use Variance application.

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

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

7. The application of *Jeromy Millirans & Ashlee Millirans* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a 4 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for the placement of a chicken coop 6 ft. from the rear property line, for a 1 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for the placement of a chicken coop 4 ft. from the east side property line, and for a 5 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing residence 45 ft. from the centerline of the right-of-way of 5th St. on property located on the Northeast corner of 5th St. & Clunette St., East of CR 23, common address of 19053 5th St. in Jackson Township, zoned R-2, came on to be heard.

There were 24 neighboring property owners notified of this request.

Mr. Auvil said that this petition had been tabled by the Board in December and noted that the Millirans are not present. Mr. Hesser noted that this petition was first presented in November. He added that the petitioners requested a continuance, upon which the Board gave them an opportunity to come back with the stipulation that they provide a revised site plan to staff. He noted they did not submit a revised site plan. Mr. Kolbus said Staff confirmed that there was no revised site plan submitted. He noted that the Board could dismiss it for failure appear.

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:** Dismiss, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that this request for a Special Use for an agricultural use be dismissed due to the absence of the petitioner.

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

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

8. Mr. Auvil presented a staff item to rescind a Special Use for Legacy Buildings LLC. He explained that the golf course was built in the 1960s and is non-operational.

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

**Motion: Action:** Rescind, **Moved by** Randy Hesser, **Seconded by** Steve Warner that the board approve the request for rescission.

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

**Yes:** Deb Cramer, Steve Warner, Ron Norman, John Gardner, Randy Hesser.

9. The meeting was adjourned at 9:20 a.m.

Respectfully submitted,

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Janelle Tidd, Recording Secretary

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Randy Hesser, Chairman

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Ron Norman, Secretary