

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 18th DAY OF JULY, 2024 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
117 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: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Danelle Richards, Planner; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Ron Norman, David Miller, John Gardner

2. A motion was made and seconded (*Miller/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 20th day of June 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Warner/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 **Jonathon A. Ramirez** 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 Bainbridge Dr., 125 ft. West of CR 15, common address of 22792 Bainbridge Dr. in Osolo 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-0355-2024*.

There were twenty-four neighboring property owners notified of this request.

Jonathan Ramirez 22792 Bainbridge Dr. was present for this request. Mr. Ramirez stated he would like to have 24 chickens to help feed his family.

Mr. Auvil read a letter from James & Patricia Kelm 22833 Bainbridge Dr., Elkhart in remonstrance. The letter stated that they are not against Mr. Ramirez having chickens, but they don't want a business of selling the chickens at the petitioner's location.

Mr. Ramirez responded that they will not be selling chickens on their property. The chickens will be for their own personal use.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Steve Warner, **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 the request for a Special Use for an agricultural use for the keeping animals on a tract of land containing less than 3 acres on the Real Estate shall 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 (dated 5/21/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of twelve (12) chickens, and no roosters at any one time.

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

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

5. The application of *Michele P. Chaney & Rick A. Chaney, Sr., Wife & Husband* for a Special Use for a roadside stand on property located on the East side of CR 5, 400 ft. North of CR 1, common address of 51444 CR 5 in Cleveland 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-0360-2024*.

There were fourteen neighboring property owners notified of this request.

Rick Chaney, 51444 CR 5, Elkhart was present for this request. Mr. Chaney stated that he and his wife want to sell plants and flowers and extra vegetables. Mr. Miller asked if there is room for people to pull over on the side of the road. Mr. Chaney stated that they have a circular driveway to accommodate the sale of the plants and that it would only be during the warmer months. Mr. Hesser asked about the location of the sign. Mr. Chaney stated that it would be in front of the hedges indicated on the site plan. That was satisfactory to the rest of 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** Steve Warner, **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 Special Use for a roadside stand be approved with the following condition:

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 (dated 5/24/2024) and as represented in the Special Use application.

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

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

6. The application of **Ramon A. Portillo** 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 corner of Shawn Dr. & CR 11, common address of 25023 Shawn Dr. in Osolo 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-0362-2024*.

There were sixteen neighboring property owners notified of this request.

Ramon Portillo and son-in-law Mark, 25023 Shawn Dr., Elkhart were present for this request. Mr. Portillo's son-in-law stated that after seeing the first hearing today that he is now aware of the limit of 12 chickens. Mark continued that he was told by someone that the chickens would have to be towards the front of the property. Mr. Hesser asked Mark if he was aware that a revised site plan was needed. Mark replied that he was waiting until he was sure they could have chickens. Mr. Miller asked if there are turkeys on the property. Mark stated that there are turkeys on the property. Mr. Auvil stated that the request should have said special use for twelve fowl.

There was 2 remonstrators present. Henry Town 53358 CR 11, Elkhart was concerned about the noise in the mornings. Mr. Town stated he has a business right across the street from the petitioner's parcel and he is planning to build a new office there that would be in sight of the chickens. Mike Castleman 25051 Shawn Dr., Elkhart was also present with questions about the animals Mr. Portillo would be able to have and how many. Mr. Castleman also wanted to know what Mr. Portillo's plan was to keep his animals contained in his yard. Mr. Castleman stated that Mr. Portillo's chickens are in his yard almost daily. Mr. Castleman was also concerned about debris from the care of the chickens that ends up in his yard. Mr. Hesser advised Mr. Castleman that we could take the pictures he provided but that the Board would keep the pictures.

Mr. Portillo responded by saying they have a fenced-in yard, but sometimes they get out. Mark also stated that his father-in-law Mr. Portillo is currently over the limit of fowl but that he plans to reduce the amount by butchering them to eat. Mr. Miller asked about disposing of the waste from the chickens. Mr. Hesser stated that on the questionnaire it says the waste would be disposed of weekly. Mark stated the waste is disposed of on his property.

The public hearing was closed at this time.

Mr. Hesser stated that he would prefer to keep the commitment as stated to 12 chickens and no mention of fowl. Mrs. Cramer brought up the fact that the fence has some holes in it. Mr. Miller brought up the fact that no type of containment for the chickens was mentioned. Mr. Warner stated that it sounds like they are going to be free range chickens.

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

Motion: Action: Approve, **Moved by** Steve Warner, **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 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 correct measurements from all structures to the fence and from the fence to all property lines.

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 request is limited to a maximum of twelve (12) chickens, and no roosters at any one time.

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

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

7. The application of **John R. Kuhns** for a Special Use for a cemetery on property located on the East side of CR 17, 2,350 ft. North of CR 52, common address of 71014 CR 17 in Jackson Township, zoned A-1, came to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0389-2024*.

There were ten neighboring property owners notified of this request.

John R Kuhns 71014 CR 17, New Paris was present for this request. Mr. Kuhns stated that he wants to put a small family cemetery on his property. Mr. Hesser asked the staff what they were specifically looking for in the revised site plan. Mr. Auvil stated the revised site plan should be more revised to be accurate. Mr. Auvil stated to Mr. Kuhns that pending the Board approval then the revised site plan can be submitted.

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** Steve Warner, **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 cemetery 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 correct measurements from all structures to all property lines and clearly showing the location of the cemetery area.
3. A recorded deed with the correct legal description for the property is required.

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: Deb Cramer, Randy Hesser, Roger Miller, Steve Warner.

8. The application of **Roy M. Kinsinger** for a renewal of a Special Use for a home workshop/business for a small engine repair business on property located on the Northeast side of Nelson Ln, 45 ft. south of Isaac Dr., East of CR 31, common address of 67620 Nelson Ln. 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-0395-2024*.

There were twenty neighboring property owners notified of this request.

Roy Kinsinger 67620 Nelson Ln., Goshen was present for this request. Mr. Hesser stated that the original Special Use was only good for 1 year and that staff is not recommending renewal, they are recommending the Board to deny the renewal of the Special Use for a home workshop/business. Mr. Hesser asked Mr. Kinsinger what equipment he had sitting outside. Mr. Kinsinger replied that he had some lawn mowers and other equipment sitting outside because he was waiting on payment for the repairs he had done. The board has current pictures of the property and Ms. Cramer stated that the current pictures don't look any different from the complaint pictures they have been provided. She also stated that there was to be no outside storage as part of the Special Use agreement.

There were 2 remonstrators present. Lyle Garber, 15856 Burtsfield Dr., Goshen complained about the 4 lawnmowers and other equipment in Mr. Kinsinger's yard. Mr. Garber feels like not a whole lot has changed since he last complained. Tim Groves, 15911 Burtsfield Dr., Goshen was complaining about noise, but his complaint was hypothetical. He was not sure where the noise was coming from.

An email was read by Mr. Auvil in remonstrance from Mike and Candie Bartley, 67700 Nelson Ln., Goshen. The Bartley's feel this request is not a good fit for the neighborhood and that it is unsightly. The Bartley's also claimed that the rule about outside storage has never been followed and therefore they are not in favor of the renewal of Mr. Kinsinger's petition for a Special Use for a home workshop/business.

The public hearing was closed at this time.

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

Motion: Action: Deny, 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 a renewal of a Special Use for a home workshop/business for a small engine repair business be **DENIED**.

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

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

9. The application of *Alyssa A. Al-Ugaili* for a Special Use for an agricultural use for the keeping of animals on tract of land containing less than 3 acres on property located on the East side of Mars Dr., 150 ft. South of Lantz Blvd., 305 ft. East of CR 3, common address of 56514 Mars Dr. in Baugo 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-0411-2024*.

There were forty-eight neighboring property owners notified of this request.

Alec Sanders 56514 Mars Dr., Elkhart was present for this request. Mr. Miller asked Mr. Sanders how they were planning to contain the ducks. Mr. Sanders stated that they have a sixteen-foot run and are using an old shed as a coop for the ducks. Mr. Miller asked Mr. Sanders how the waste is disposed of. Mr. Sanders said the waste is put into a compost area. Mr. Hesser then asked Mr. Sanders if he understood that a revised site plan is required.

There was 1 remonstrator present. Greg Kirk, 28929 Lantz Blvd., Elkhart had questions if the ducks were for food or pets. Mr. Hesser stated that in the questionnaire the petitioner stated the ducks were for the eggs that they would provide.

Jason read a letter in remonstrance from Gloria Rohm, 56526 Mars Dr., Elkhart. Ms. Rohm is in opposition to this request. Ms. Rohm said in the letter that a couple of years ago there were ducks and chickens and that the noise and smell was horrible. Ms. Rohm stated that this is not a location for farm animals and would not be a good fit for the neighborhood. Mr. Hesser asked where Ms. Rohm's property is located with relation to Ms. Al-Agaili's property.

Mr. Sanders responded that he was not living at this property during the time frame Ms. Rohm mentioned. He plans to have the ducks on the back side of the property away from Ms. Rohm's property.

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** 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 Special Use for an agricultural use for the keeping of animals on 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 (dated 7/18/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of six (6) ducks at any one time.

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

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

10. The application of *Waypoint Community Church* for an Amendment to an existing Special Use for a place of worship to allow for a new building and wall sign on property located on the West side of CR 29, 600 ft. North of US 20, common address of 56893 CR 29 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-0387-2024*.

There were eighteen neighboring property owners notified of this request.

Blake Carlstrom 56893 CR 29, Goshen was present for this request. Mr. Carlstrom explained that the addition of a new building would allow for more outside groups to use the space as well as the church members. It would have a gym, an office and more classrooms. Mr. Carlstrom also stated that the security lighting would be aimed down so there would be no light pollution. Mr. Carlstrom also addressed the fact that the sign would not have lighting on it but would be lit from the ground. Mr. Carlstrom also stated that there would be no need to add additional lighting for parking. Mr. Carlstrom addressed the septic and said it is being maintained and pumped every other year and an inspection proved it to be adequate.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser and Mr. Miller had a discussion regarding a possible revised site plan that may need to be submitted if they change the size or location of the building.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steve Warner. 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 new building and wall sign 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 (dated 06/04/2024) and as represented in the Special Use Amendment application.

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

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

11. The application of **Tina E. Curtis** 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 special use for a roadside stand, and for a 22 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for an existing residence on property located on the North side of CR 18, 535 ft. East of CR 1, common address of 29897 CR 18 in Baugo 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-0361-2024*.

There were twenty-three neighboring property owners notified of this request.

Tina Curtis, 29897 County Road 18, Elkhart was present for this request. Ms. Curtis stated that she has had her chickens since she has lived at 29897 CR 18 for 7 years. Ms. Curtis informed the board that she sells the eggs, but people do not come to her house which is why she wants the roadside stand. Ms. Curtis indicated in her questionnaire that she would like to have goats and maybe a pig but that would be in the future. Ms. Curtis explained that she would like twenty chickens and 2 ducks because she sells fifteen dozen eggs a week. She expressed that twelve chickens would not suffice. Ms. Curtis claimed she only lets her chicken's free range when she is home and that one of her neighbors does not mind the chickens in their yard. In fact, her neighbor to the east feeds the chickens. Ms. Curtis stated that she has a 20x20 coop that the chickens stay in when she is not home. Ms. Curtis also stated that she has a rooster to protect her chickens because she there is a fox that has been threatening her chickens and ducks. Mr. Hesser stated that generally special uses don't approve of roosters. Ms. Curtis claimed that she understood. Mr. Miller asked Ms. Curtis how she would dispose of the waste. Ms. Curtis responded that she digs holes in the back of her property, buries the waste and covers the holes with lyme.

Frederick Whitmer, 57936 County Road 1, Elkhart stated he is not against or for the fowl. Mr. Whitmer wanted to oppose the pigs and goats which are not part of this petition. Angie Davis, 29906 County Road 18, Elkhart stated that she opposes a free-standing building to sell eggs as it may cause additional traffic. Three anonymous letters read by Mr. Auvil were against the traffic,

the stand, the waste and the noise. The letters also stated concern about the upkeep of the property and that this is better suited for an agricultural area.

Mr. Miller asked Ms. Curtis if she wanted to address any of the remonstrators and Ms. Curtis stated that she could do without the roadside stand. Mr. Miller asked if she had a driveway customers could pull in on. Ms. Curtis stated that she has a 70 ft driveway for use of customers.

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** 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 Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres and for a special use for a roadside stand 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 (dated 5/24/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of twenty (20) chickens, two (2) ducks, and no roosters at any one time.

The request for a Special Use for a roadside stand was acted upon as follows: Denied.

Further, the motion included that a 22 ft. lot-width Developmental Variance (Ordinance requires 100 ft.), be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development 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 (dated 5/24/2024) As represented in the Developmental Variance application.

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

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

12. The application of *Kevin D. Stutzman* for Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of a detached accessory structure 85 ft. from the centerline of the right-of-way on property located on the West side of SR 13, 650 ft. North of CR 24, common address of 59395 SR 13 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-0390-2024*.

There were eleven neighboring property owners notified of this request.

Kevin Stutzman, 59395 SR 13, Middlebury was present for this request. Mr. Stutzman stated that they would like 2 horses and a 30x40 barn to house the horses and provide storage. Mr. Hesser asked Mr. Stutzman how he would be disposing of the waste. Mr. Stutzman responded by saying he spreads the waste out over his neighbor's field to the north.

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 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 (dated 06/04/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of two (2) adult horses at any one time.

Further the motion included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of a detached accessory structure 85 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. Variances from the developmental standards of the Development 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 (dated 06/04/2024) and as represented in the Developmental Variance application.

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

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

13. The application of **Mikel P. Wendel** for a Use Variance to allow for the construction of an accessory structure on property without a residence 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 Northeast side of CR 22, 2,170 ft. Northwest of CR 1, common address of 00000 CR 22 in Baugo 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-0372-2024*.

There were thirteen neighboring property owners notified of this request.

Blake Doriot, B Doriot and Associates, 68080 Division St., New Paris, was present for this request. Mr. Doriot stated that Mr. Wendel will combine the parcels to one deed and that Mr. Wendel wished to build an accessory structure for storage of personal items. Mr. Doriot also stated

that the accessory structure will be placed appropriately so as to not interfere with a future dwelling.

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 the construction of an accessory structure on property without a residence 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 recorded deed must be submitted that combines 20-0522-253-002.000-001 and 20-05-22-201-003.000-001.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/12/2024) and as represented in the Use Variance application.
2. The proposed structure must remain a residential accessory structure.

Further, the motion 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 Development 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: Deb Cramer, Randy Hesser, Roger Miller, Steve Warner.

14. The application of *Jose Antonio Garcia-Hernandez & Marisol Peredia* for a requested rescission of an agricultural use for the keeping of animals on a tract of land containing less than 3 acres for failure to comply with the condition(s) and/or commitments imposed by the Board of Zoning Appeals on property located on the South side of State Line Rd., 4,590 ft. West of CR 15, common address of 23176 State Line Rd. 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-0040-2023*.

There were 6 neighboring property owners notified of this request.

Kierstin Dominguez, Elkhart County Planning and Development Code Enforcement was present for this request regarding the rescission of Mr. Garcia-Hernandez petition rescission. Ms. Dominquez inspected the property on Monday July 15, 2024, and all animals were removed except

the chickens. Mr. Miller asked if the roosters were gone. Ms. Dominguez said the roosters were gone as far as she could tell.

Mr. Garcia-Hernandez, 23176 State Line Road, Elkhart was present for this request. Mr. Garcia-Hernandez stated that he only has chickens remaining. Mr. Garcia-Hernandez clarified that he currently has 8 chickens. Mr. Auvil stated that there are no more concerns if the number of chickens remains under thirty.

Donna Bachota, 23276 State Line Rd., Elkhart is still worried about piles of wood and debris in the back of Mr. Garcia-Hernandez's property. Once they are moved she will have no more issues. Ms. Bachota also stated that he has removed the animals as requested.

The public hearing was closed at this time.

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

Motion: Action: Deny, Moved by Randy Hesser, **Seconded by** Steve Warner 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 requested rescission of an agricultural use for the keeping of animals on a tract of land containing less than 3 acres for failure to comply with the condition(s) and/or commitments imposed by the Board of Zoning Appeals be Denied.

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

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

Staff Items:

15. Approved for a minor change.

The staff item for **Andrew G. & Susie Martin, Husband and Wife** (SUP-0841-2021) was presented by Mr. Auvil and stated that Mr. Eugene Martin was here representing Andrew & Susie Martin. Mr. Auvil stated that Andrew & Susie Martin are requesting to amend the special use permit for a home workshop/business for a meat processing business to allow for an addition to the property located at 30425 County Road 36 in Wakarusa. Mr. Auvil stated they are requesting to add an 800 square foot addition to the existing butcher house. The request was received in an email June 24, 2024, and Mr. Auvil stated that staff recommends approval of this minor change request. Mr. Hesser asked if there have been any complaints since the initial approval of the special use. Mr. Auvil responded no.

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 approve the minor change to (SUP-0841-2021).

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

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

16. The meeting was adjourned at 10:53 AM

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary