

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 16th DAY OF MAY 2024 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: Jason Auvil, Zoning Administrator; Adam Coleson, Planner; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: David Miller, John Gardner.

2. A motion was made and seconded (*Norman/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18th day of April 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Warner/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 ***Timothy O. DeLuca & Ruth E. DeLuca, 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 on property located on the South side of E. Spring St., 1,550 ft. East of S. Main St., common address of 503 E. Spring St. in Middlebury 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-0228-2024*.

There were 20 neighboring property owners notified of this request.

Ruth DeLuca, 503 E. Spring St., Middlebury, was present for this request. She stated they are looking to put a small chicken coop on the back side of their property. Mrs. Cramer asked if there are covenants in the subdivision. Mrs. DeLuca responded no. Mrs. Cramer asked if she understood what Staff is asking for on the revised site plan. Mrs. DeLuca responded no, she needs clarification. Mr. Coleson explained the site plan needs to show setbacks from where the chicken coop will be placed to the property lines. Mrs. DeLuca explained she understood now. Mr. Miller asked if this is a permanent or portable coop. Mrs. DeLuca responded it is portable, though they are not planning on moving it. Mr. Hesser asked how they will dispose of the manure. Mrs. DeLuca responded she hadn't considered that yet, but most likely they will put the waste in their garden.

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** Deb Cramer, **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 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 buildings labeled with setbacks and showing the coop out of the utility easement.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/16/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of eight (8) chickens and no roosters at any one time.

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

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

5. The application of *Stephen Holmes* for a Special Use for a home workshop/business for a DIY craft studio on property located on the North side of CR 24, 2,560 ft. East of CR 9, common address of 25517 CR 24 in Concord 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-0230-2024*.

There were 30 neighboring property owners notified of this request.

Tabatha Holmes, 25517 CR 24, Elkhart was present for this request. She explained this will be a Do-It-Yourself workshop for customers to come, create, and paint their signs themselves. She stated right now she is mobile operation, but she would like a more permanent location. Mrs. Cramer asked if the signs are for indoor decoration. Mrs. Holmes responded they are for indoors or for porches. Mrs. Cramer stated on the site plan it looks like parking will be on the grass. Mrs. Holmes explained that they have a grass portion though they will be putting down gravel in the parking area, so their yard won't get torn up. Mr. Hesser asked if the signs being over the allowed size is an issue that needs to be addressed. Mr. Auvil responded no. Mrs. Holmes stressed the signs are directional on where customers need to go once they are on the subject property. Mr. Miller stated it seems as though they will have sufficient parking area. Mrs. Cramer asked if the area on the site plan is for 7 parking spaces on grass, and the other 3 parking spots on a solid surface. Mrs. Holmes showed on the aerial where parking will be. Mr. Coleman stressed that parking cannot be on the grass; it will have to be an improved surface.

Sally Bokhart, 25520 Bayberry Ct., Elkhart, was present in remonstrance. She asked what the hours of operation will be and if this will be a day and nighttime business. She stressed the Holmes live on a hill that is a blind spot for traffic, and it is near the Concord Junior Highschool. She added before school and after school the traffic is really bad. She continued to say that traffic will divert through the subdivision to get around the back up on the county road. She asked what was mentioned about signs. Mr. Hesser responded they are asking for an 18 in. by 36 in. sign. Mrs. Bokhart asked if those signs will be on the roadway. Mr. Auvil responded no, the signs will be on the subject property. Mrs. Bokhart asked what the zoning is being changed to. Mrs. Cramer responded the zoning isn't changing. Mrs. Bokhart asked what does DIY mean. Mr. Auvil responded it means Do-It-Yourself. Mrs. Bokhart stated she knows what DIY means, but what type of crafts will they be making and how many people will this bring in. She reiterated the traffic is her biggest concern. She asked how long the Holmes have lived in the residence. Mrs. Cramer

responded that isn't relevant. Mrs. Bokhart stressed it is relevant to her, as the property hasn't been kept up and the leaves and trees fall on her property. Mrs. Cramer stressed that is not what this meeting is for today.

Tabatha Holmes came back on. She stated the workshop will be in the basement of her residence, and it will only hold around 12 or 13 people. She continued to say usually it's a group and the people coming will carpool. She stressed there won't be many cars parked at one time. She went on to say there is a blind spot coming out of her driveway, but these are responsible adults coming to the parties. She stressed most of her parties will be held in the evenings, as she works a full-time job during the day. Further, she explained that the parties will all be booked in advance and have reserved spots, this is not a retail store. Mr. Hesser stated schools usually have two times a day when there is a lot of traffic. Mrs. Holmes reiterated the workshops will not be during those busy traffic times, and they will be held around 5:30-6:00 p.m., lasting roughly 2 hours. Mrs. Cramer stated it sounds as though most things will be done around 9:00 p.m. Mr. Auvil asked what kind of crafts will be created. Mrs. Holmes responded it will be wooden signs for people to create to hang in their homes.

The public hearing was closed at this time.

Mr. Hesser stated the traffic concern is valid, but it sounds like the workshops won't have traffic during the school hour high traffic times.

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

Motion: Action: Approve, **Moved by** Deb Cramer, **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 DIY craft studio 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 parking on an improved surface.

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 = 5).

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

6. The application of *Tri-County Land Trustee Corporation (Land Contract Holder) & Samuel R. Yoder & Joann Yoder, Husband & Wife (Land Contract Purchasers)* 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 North side of US 20, 520 ft. East of CR 33, common address of 14909 US 20 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-0232-2024*.

There were 13 neighboring property owners notified of this request.

Paul Hochstetler, 54824 CR 33, Middlebury, was present representing the petitioners. He explained they are fixing a problem they didn't know existed. He went on to say the petitioners have lived on this property for over 10 years and have always had horses to use for transportation. He continued to say the property was reduced in size due to the widening of US 20, though that wasn't the cause of the less than 3 acres. He stressed as far as pasture and space for the horses, they have enough space for the 3 horses, as they feed hay year-round. Mr. Hesser asked how they dispose of the waste. Mr. Hochstetler responded the property is almost 3 acres, and they will distribute on the land. Mrs. Cramer asked if the chickens and horses have been there for the past 10 years. Mr. Hochstetler responded yes; they have been there about the same time as the owners.

Andre Yoder, 14781 US 20, Middlebury, was present in remonstrance. He stated the property is mostly wooded and has no real pasture space for the horses. He went on to say the property to the north is an old gravel pit area where nothing is stopping the waste from running-off into the neighboring properties.

Paul Hochstetler came back on. He addressed the well-being of the animals, he has considerable experience in animal husbandry, and there is no concern whatsoever to these horses being taken care of properly. He went on to say he has seen horses stalled full-time and never allowed out in a pasture. Mr. Miller asked if the horses have been on the property for 10 years. Mr. Hochstetler responded he doesn't know if they are the same horses, but yes, horses have been there. He reiterated that if there wasn't a problem with run-off this whole time then, he doesn't see it being a problem going forward. Mrs. Cramer asked if there are always 3 horses on the property. Mr. Hochstetler responded sometimes there are only 2 horses, but they would like permission for 3 as the needs fluctuate.

The public hearing was closed at this time.

Mr. Hesser stated if a property is managed correctly then horses can be kept on a smaller lot, and people own horses in big cities. He stressed he appreciates the concern for the run-off, but at this small scale it shouldn't be an issue. Mrs. Cramer stated the Board has approved animals on smaller lots than this one.

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

Motion: Action: Approve, **Moved by** Deb Cramer, **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 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 04/11/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of three (3) horses, six (6) chickens, and no roosters at any one time.

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

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

7. The application of *North Middle Barens Amish Church* for a Special Use for a place of worship and for a Special Use for a school on property located on the East side of CR 43, 550 ft. South of CR 10, common address of 54604 CR 43 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-0245-2024*.

There were five neighboring property owners notified of this request.

Paul Hochstetler, 54824 CR 33, Middlebury, was present representing the petitioner. He explained part of the petition is cleaning up that there was no existing Special Use for a school, and they would like to do an addition to the north side. He stressed they will not be adding more students, but they need more space as this school is smaller than most schools that are built now. Mrs. Cramer asked how long this has been used as a school. Mr. Hochstetler responded since 1986. Mr. Hesser asked if there will be horses kept in the barn, because he doesn't see parking on the site plan. Mr. Hochstetler 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** Deb Cramer, **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 Special Use for a place of worship and for a Special Use for a school 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 04/15/2024) and as represented in the Special Use application.

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

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

8. The application of *Nina R. Purtlebaugh* 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 Southwest side of Christopher Dr., 325 ft. South of Suburban Dr., East of CR 17, common address of 21938 Christopher Dr. in Washington 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-0246-2024*.

There were 28 neighboring property owners notified of this request.

The petitioner was not present; hearing continued after the next petition ended.

See item #10 on page 16.

9. The application of **Ramon Chiquito Marin** for an Amendment to an existing Special Use for a home workshop/business for an auto dealership to allow for the sale of additional vehicles on property located on the South side of CR 30, 1,915 ft. West of CR 7, common address of 27364 CR 30 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 #SUP-0229-2024*.

There were four neighboring property owners notified of this request.

Ramon Chiquito Marin & Mercedes Chiquito, 27364 CR 30, Elkhart, were present for this petition. Mr. Miller asked if all they are doing is adding 15 more cars, and if there was any service work being done on site. Mrs. Chiquito responded no, based on the application she requested 40 or 45 cars, because they have the space. She continued to say they do not do any mechanical work on site, as they will take all the cars, that need fixed or painted, to another location. She stressed they only do detailing and car washing at their shop, and they found they needed more hours to help get more work done. She went on to say that the customers find it strange to have a dealership in this location, but since they live next door, this works out great for them. She stressed the neighbors are happy they are expanding and growing their business, and they will not have more than 45 cars. Mr. Miller asked if the approval for today would be for 30 more cars. There was a discussion about how many cars could be approved today. It was clarified that the application is asking for 45 cars, though Staff is recommending only allowing 30 cars. Mrs. Chiquito explained part of what they were asking for was also to include parking for customers as well, but if they can only have 30 cars then that's what they will stick to. Mrs. Cramer asked if they were approved for 15 cars before, then why didn't they stick to that instead of going over. Mrs. Chiquito responded they had timing issues when they had cars parked there to be worked on and they couldn't get finished cars off the lot fast enough. Mrs. Cramer asked if any cars are parked on the grass. Mrs. Chiquito responded no; everything is on gravel. She asked if there was any possibility for them to have more cars later on or will they have to change the zoning of the property. Mr. Miller responded that is something they can discuss with Staff after the meeting, and the Board can only deal with what the request is for. Mr. Hesser stated the other issue is the business is called a home workshop, and if they have the residence on a separate parcel, then the Special Use wouldn't be effective. He went on to say this Board doesn't deal with rezoning.

Jim Braid, 28258 CR 28, Elkhart, was present in remonstrance. He stated he is representing the Myer's family that owns the farmland surrounding the subject property. He continued to say that there is no opposition to the business being there, but they would like to see this stay at the original number of cars approved. He stressed that property values will be hurt if this grows and gets rezoned away from the agricultural zoning that it is now. Mr. Norman asked if 30 cars is an issue to him. Mr. Braid responded the goal is to leave them at the 15 cars and not anymore.

Mr. Auvil read a letter from Kenneth P. Myers, 61022 SR 19, Elkhart, in remonstrance. He stated they are not opposed to the business, though they are not in favor of having more than 15 cars on site. He then submitted the letter *[Attached to file as Staff Exhibit #1]*.

Mr. Auvil read a letter from Timothy & Lauralee Anderson, 61625 SR 19, Elkhart in remonstrance. He stated they are not in favor of the car dealership in this area, and they feel this property should be left for agricultural uses. He then submitted the letter *[Attached to file as Staff Exhibit #2]*.

Mercedes Chiquito came back on to respond. She stated she has a signature from neighbors that are close to the area, and they are all in support of their request. However, she stated but she

left that in the car. She stressed there won't be any mechanical work, this will bring more people to the community, and people trust them. Mr. Norman stated one of the remonstrance letters says they were not notified of this petition. It was discussed the people who sent in the letter live outside of the 300 ft. area that notice of public hearing go out to. Mr. Norman asked how far the property is from State Road. Mrs. Chiquito responded there is a field then a dairy farm. It was discussed they are about a half mile from State Road 19. Mrs. Chiquito's husband went and got the petition from the neighbors out of the car and submitted it *[Attached to file as Petitioner Exhibit #1]*.

The public hearing was closed at this time.

Mr. Hesser stated he has some concerns about this petition and in less than a year and half they are asking for over 50 cars. He continued to say the petitioners kept asking how they can get more cars than the 30 that is being recommended. Mrs. Cramer stated she is also concerned about how this is going to be maintained at the 30 cars. She asked Staff if they go over 30 cars, what will happen. Mr. Auvil responded Staff recommended 30 cars due to the complaint, and this is a scope and scale issue of when will this go beyond the intent of a home workshop/business. He continued to say there is no rule book on how many cars make a property look dense, and Staff doesn't have the manpower to check on all of these requests after they have been approved. He stressed if the business gets any bigger then they will need to rezone the property or find a new place for this business. Mr. Norman stated he is agreeable to a time limit, and he sees a clean operation being run on the subject property. Mr. Miller stated he is comfortable with 30 vehicles, but he sees them coming back very soon asking for more. He stressed that any more than 30 vehicles, then they will have to find a new place for the business. Mr. Hesser stressed that the petitioners need to understand that approval for 30 cars means 30 cars and nothing more. There was a discussion about the other ideas that can be done to help appease the neighbors to reduce visible impact. Mr. Warner stated that he will be comfortable giving a 2-year time limit.

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 home workshop/business for an auto dealership to allow for the sale of additional vehicles 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 only thirty (30) car sale spaces.

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 Amendment application.
2. The request is limited to a maximum of thirty (30) vehicles for sale at any one time.
3. The request is limited to the days and hours of operation shown in the Amendment questionnaire: Monday through Friday, 10:00 a.m. to 6:30 p.m., and Saturday, 10:00 a.m. to 4:30 p.m.

4. Approved for a period of two (2) years; any renewal shall be before the Elkhart County Advisory Board of Zoning Appeals.

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

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

10. The application of *Nina R. Purtlebaugh* 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 Southwest side of Christopher Dr., 325 ft. South of Suburban Dr., East of CR 17, common address of 21938 Christopher Dr. in Washington 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-0246-2024*.

Nina Purtlebaugh, 21938 Christopher Dr., Elkhart, was present for this request. She stated she wants to have a small chicken coop for 5-6 hens. Mrs. Cramer asked if there were any covenants in the subdivision. Mrs. Purtlebaugh responded none that she is aware of. Mr. Miller asked if there were other chickens in the area. Mrs. Purtlebaugh responded none that she knows of. Mr. Miller asked what she will do with the waste. Mrs. Purtlebaugh responded she will be putting it in a compost pile and whatever can't go in there will go in the trash.

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** 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 the fenced area for the chickens and coop dimensions.

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 at any one time and no roosters.

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

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

11. The application of **Ruslan A. Shevchik & Marina Shevchik, Husband & Wife** for a Special Use for commercial parking of a semi-truck and trailer on property located on the East side of CR 23, 1,565 ft. Northwest of SR 15, common address of 59570 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-0247-2024*.

There were eight neighboring property owners notified of this request.

Ruslan Shevchik, 59570 CR 23, Goshen, was present for this petition. He stated he is a truck driver and would like to park his truck when he is home on his property. He went on to say when they purchased this land in 2017 the idea was to be able to park the truck at home. Mr. Warner asked if there is room to pull onto the property and turn around. Mr. Shevchik responded yes, and he made the driveway bigger to make sure he could turn around on the property. Mr. Hesser asked if he could address the piles of tires and vehicles. Mr. Shevchik responded they were personal vehicles they were working on, and they are gone now. He continued to say the tires are actually a playground he built for his children, though he will remove them if he has to. Mr. Hesser asked is there any type of business happening on the property. Mr. Shevchik responded he doesn't run a business, and he didn't know he couldn't park his truck on the property. He continued to say Staff explained he needed the Special Use for parking the truck on his property.

There were no remonstrators present.

The public hearing was closed at this time.

Attorney Kolbus stated on the Staff Report there are two commitments, though neither state no backing onto or off of the county road. He continued to suggest that that commitment be added if this is approved. Mr. Hesser stated the Board doesn't approve a lot of these, but they have a lot of room. Mrs. Cramer stressed no one is here to speak against.

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 commercial parking of a semi-truck and trailer 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 4/15/2024) and as represented in the Special Use application.
2. The request is limited to one (1) semi-tractor and one (1) trailer.
3. Back in or backing out of semi-tractor and/or trailer from/onto CR 23 is prohibited.

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

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

12. The application of *Ace Monard & Karen Monard, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for an industrial service business to allow for a new building on property located on the Southwest side of CR 115, 540 ft. Northwest of CR 20, common address of 58897 CR 115 in Concord 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-0201-2024*.

There were 11 neighboring property owners notified of this request.

Ace Monard, 58897 CR 115, Goshen, was present for this petition. He stated he has two shops on the property that he uses for the business, though it is mostly on-site work and very little machining. He went on to say that he is going to remove both of the buildings and build a new one for more space. He continued saying he talked to his neighbors, and no one had any complaints about his business. Mr. Hesser asked how many employees he needs. Mr. Monard responded he would like to keep this a smaller business and not grow, therefore the current number of 5 employees is all he needs.

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** 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 home workshop/business for an industrial service business to allow for a new building 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 3/28/2024) and as represented in the Special Use Amendment application.

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

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

13. The application of *Catsnip Etc Co* for an Amendment to an existing Special Use for a kennel to allow for a revised site plan and more time to complete the kennel on property located on the North side of CR 4, 2,715 ft. West of CR 15, common address of 23023 CR 4 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-0194-2024*.

There were 18 neighboring property owners notified of this request.

Alice Poseley, 24741 Ne Ce Dah Dr., Elkhart and Gail Monroe, 804 Staci Ln., Middlebury, were present for this petition. Mrs. Poseley submitted a packet of information [*Attached to file as Petitioner Exhibit #1*]. She stated they are not very experienced in getting quotes for buildings and once they got the quotes, they realized they wouldn't be able to do their original plan. She went on to say they will start on the residential section, to be completed by next year, and the kennel will be done in

2026. Mr. Hesser asked in the beginning or end of 2026. Mrs. Poseley responded by the end of 2026, as they aren't sure they will have the money to get it done sooner. Mr. Hesser clarified that this request is for more time and a revised site plan.

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 a kennel to allow for a revised site plan and more time to complete the kennel 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 subdivision is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/23/2024) and as represented in the Special Use Amendment application.

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

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

14. The application of *John E. Yutzy & Geneva Faye Yutzy, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for a woodworking business to allow for an addition 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 36, 670 ft. East of CR 31, common address of 15733 CR 36 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-0254-2024*.

There were seven neighboring property owners notified of this request.

John Yutzy, 15733 CR 36, Goshen, was present for this petition. He stated he is looking to expand the current building for more space. He explained he was going to do this addition in 2014, but they decided to add to their house instead. Mr. Hesser asked if they are hiring any additional employees. Mr. Yutzy responded no. Mr. Hesser asked how tall the new addition will be to the peak. Mr. Yutzy responded the height will be about 27 ft. on the new addition and the current building has a peak of 20 ft.

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 an Amendment to an existing Special Use for a home

workshop/business for a woodworking business to allow for an addition 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 4/15/2024) and as represented in the Special Use Amendment 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 (dated 4/15/2024) and as represented in the Developmental Variance application.

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

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

15. The application of *Joshua Lyn Borkholder & Neoma Diane Borkholder, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for a woodworking business to allow for an addition, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 7 outside employees (Ordinance allows 2) on property located on the East side of CR 101, 2,435 ft. South of CR 56, common address of 72990 CR 101 in Locke 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-0231-2024*.

There were five neighboring property owners notified of this request.

Josh Borkholder, 72990 CR 101, Nappanee, was present for this petition. He stated he wants more employees and an addition to his existing building. Mr. Hesser asked how many employees he has currently and how many live on site. Mr. Borkholder responded he has 7 employees and none of them live on site. Mrs. Cramer asked if he lives on site. Mr. Borkholder responded yes. Mr. Hesser asked who his customers are. Mr. Borkholder responded most of his customers are contractors and designers, but he will have a few walk-in customers show up. Mr. Hesser asked if deliveries are made by box trucks. Mr. Borkholder responded yes most are small box trucks. Mr. Hesser asked if those delivery trucks are able to turn around on the property. Mr. Borkholder 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** 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 home workshop/business for a woodworking business to allow for an addition 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. The petitioner must show proof of business ownership transferred to Joshua Borkholder, who is the owner/occupant.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/11/2024) and as represented in the Special Use Amendment application.
2. Any future expansions to the business will require a DPUD.

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, and for a Developmental Variance to allow for 7 outside employees (Ordinance allows 2) 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 (dated 4/11/2024) and as represented in the Developmental Variance application.

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

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

16. The application of *Mitchell D. Hawkins* for a Use Variance to allow for the construction of a second dwelling on a zoning lot on property located on the West side of SR 13, 3,525 ft. North of CR 10, common address of 53829 SR 13 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 #UV-0249-2024*.

There were 26 neighboring property owners notified of this request.

Kenneth Jones Jr., JPR, 325 S. Lafayette Blvd., South Bend, was present representing the petitioner. He explained there is a post frame structure on the subject property that is currently the petitioner's residence, it is 2-stories in height, 2,400 sq. ft. of living space, and it was built several years ago. He continued to say they now want a newer and bigger home, and the current residence would be considered an accessory dwelling. He stressed the Zoning Ordinance doesn't allow 2 primary residences on a property, though it allows for an accessory dwelling unit. He stressed he agrees this will not have a negative effect on the neighboring property owners or the Comprehensive Plan. Further, he explained the subject property is a large property, but it doesn't have significant amount of road frontage. He went on to say it will not be simple to get a second

driveway on to SR 13 as well as working around regulated drains and wetlands on the subject property. He stated they attempted to submit two Developmental Variances, one to ask for the accessory dwelling to be larger than the 1,000 sq. ft. maximum living area that is allowed and the other for the accessory dwelling to be a two-story dwelling instead of a single-story that is allowed. He reiterated that Staff explained a Use Variance was what they needed to file. Mr. Hesser asked who will live in the accessory dwelling.

Mitch Hawkins, 53829 SR 13, Middlebury, was present for this petition. He responded no one will live in the accessory dwelling, and it will just be a mancave/storage barn building. Mrs. Cramer asked how much road frontage there is on the subject property. Mr. Jones responded it is less than 200 ft. He reiterated an accessory dwelling is permitted by right if it is in an A-1 zone when it meets the requirements in the Zoning Ordinance. Mr. Hesser asked if this existing residence is under 1,000 sq. ft. Mr. Jones responded no, it is 2,400 sq. ft. Mrs. Cramer stated it is also not one-story. Mr. Auvil explained he has never seen the Hearing Officer approve an accessory dwelling larger than 1,000 sq. ft. He continued to say they could remodel the current building to turn the residential space into storage area to get to the 1,000 sq. ft. that is allowed. Mr. Hawkins stressed he is not willing to make the mancave smaller, as the whole purpose of this is to allow for storage and mancave space. He went on to say in the Staff Report it states strict enforcement of the County Ordinance would not constitute an unnecessary hardship, the proposed residential structure could be placed on a subdivided lot. He asked what the definition of hardship is, as having to decommission any of the current building would be a hardship to himself. Mr. Hesser responded decommission doesn't mean tearing it down. Mr. Hawkins stated that is correct, but what is being asked to be taken out then. Mrs. Cramer asked if storage space counts as living area square footage. Mr. Auvil responded generally living area is deemed livable space, and he doesn't know how to explain how to decommission the livable space to storage space. He went on to explain that there needs to be a bathroom, kitchen, and bedroom for a building to be considered a residence. Mr. Miller stated the Board has heard other petitions similar to this, where they have a house and build a garage, then they add residential space to the garage, and suddenly they want to use that as a rental. He stressed that isn't allowed either. Mr. Hesser asked if this is approved, can a commitment be added that the accessory dwelling not be used as residential space. Attorney Kolbus responded there isn't a way to enforce that type of commitment. There was discussion on what is considered a residence, what is considered storage space, and how it could be enforced. It was clarified the Board would never know if someone moved into this building to live on a permanent basis. Mr. Jones asked isn't the use of the property what decides what is the primary use of the structure versus what the use is for the other structures. Mr. Hesser responded if the building has a bedroom, kitchen, and bathroom, then it is considered a residence, and it is not the intent of the use. Mr. Jones reiterated in this case they want to build a much larger and nicer residence, the property owner/occupant will move into that new residence, and then they would consider this current residence an accessory dwelling. He stressed he doesn't understand why that isn't allowed. Mr. Hesser stressed allowing two residences means it could be rented to someone else. Attorney Kolbus stressed two primary dwelling units are not allowed on one property, and they are above what an accessory dwelling allows. Mrs. Cramer reiterated the problem is this is two-story and over the square footage. Mr. Jones stated there are numerous examples of guest houses, pool houses, and others that have been built on large parcels and are purposed and being taxed in this area. Mr. Hesser explained this structure was classified as a house during the building

permit process, and the Board can't undo that classification. He continued to say the biggest hurdles are number 3 and 4 of the Staff Analysis, and he doesn't see any evidence of those happening in this case. Mr. Hawkins stated TC Energy is the pipeline that runs through Elkhart County, and there are tons of easements on how it can be crossed, rules on how to put a driveway on it, and it limits what can be done on his property on the north portion. He stressed a big portion of his property is wetland and not buildable. Mr. Hesser stated the site plan doesn't show where the existing house is located. It was shown on the aerial where the existing structure is located and where the proposed structure would go. Mr. Norman asked if they decommissioned anything over 1,000 sq. ft. of living space, would they be able to consider this an accessory dwelling. Mr. Auvil responded yes. Mr. Hesser reiterated they would still have two stories. Mr. Auvil explained the other option for approval would be for the petitioner to do a DPUD, because the site plans and surveys are done. He stressed this request goes against the Zoning. Mr. Hawkins stated the original idea, in 2018, was to put the residence in a different location, but the wetlands and the swampiness of the land caused issues for driveways. He went on to say currently they are at 1,200 sq. ft., and he already has a wall that separates the residential area from the storage area. He asked what that he is requesting is injurious, from the first line item. Mr. Auvil responded this request goes against the Zoning Ordinance. Mr. Hawkins asked who is receiving injury from that. Mr. Auvil responded any time someone violates the laws or codes it goes against the Civil Order and how things are supposed to be done, as laws are applied equally to everyone. Mr. Hawkins asked again how it is being injurious. Attorney Kolbus stressed the community is being injured by him violating the Zoning Ordinance. Mr. Hesser explained the idea of not having two residences on the property is intended, he believes, to avoid potential conflicts. Mr. Jones asked if they have to do a DPUD is the Board saying in Elkhart County, if you want to build a 10,000 to 12,000 sq. ft. primary residence, then no other guest house is allowed over 1,000 sq. ft. Mr. Auvil responded that is 100% accurate.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he doesn't have a concern with the ultimate goal, though he is concerned about approving this request and having nothing to stop this from being rented out by a future owner of the land. He continued to say if the Board approves this request, then this will open up issues in the future with other requests. Mrs. Cramer stated she doesn't see how this can be allowed, and it will set a precedent, if the Board allows this. Mr. Warner explained that a DPUD should be the way they go.

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

Motion: Action: Deny, 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 Use Variance to allow for the construction of a second dwelling on a zoning lot be denied in accordance with findings #3 and #4 for the Staff Analysis as the Findings and Conclusions of the Board:

3. A need for the Use Variance does not arise from a condition that is peculiar to the property involved. This is a large property and could be subdivided to accommodate one primary residence per buildable parcel.

4. Strict enforcement of the terms of the Zoning Ordinance would not constitute an unnecessary hardship if applied to the subject property. The proposed residential development could be placed on a newly subdivided lot.

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

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

**** It should be noted Mr. Hesser recused himself, and stepped down from the Board and left at this time ****

17. The application of *Elmer Brandenberger* for a Use Variance to allow for an auto fabrication 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 West side of Grasslands Ln., 710 ft. South of CR 40, common address of 66133 Grasslands Ln. in Elkhart 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-0239-2024*.

There were 28 neighboring property owners notified of this request.

Mr. Miller asked Staff to clarify what is being recommended for denial and for approval. Mr. Auvil responded the denial is for the Use Variance and the approval Developmental Variance. He noted the Developmental Variance would just give them more storage space.

Elmer Brandenberger, 66133 Grasslands Ln., Goshen, was present for this petition. He explained he originally put the building up in 2020, for storage for personal use and then he had to adjust his site plan for the square footage per the building inspector. He continued to say that he never turned in the site plan for the storage, which is on him, due to getting Covid, and that is why he is here today to rectify the building being too big.

Nick Brandenberger, 66084 Grasslands Ln., was present for this petition. He explained he grew up on the subject property, and he has worked on trucks with this dad his whole life. He went on to say that when the building went up, he started working on his own and friend's trucks, but now he works out of the building full time to support his family. Further, he continued to say that he understands that he owns the shop and business though he doesn't live on the property, but he lives two houses up. He added he talked to all of the neighbors, and they are all in support. He stressed he wants this Use Variance granted on ownership and not tied to the property. He went on to say they do not do auto repair, and the term monster trucks is very skewed. He explained they specialize in custom auto fabrication on suspensions. Further, he continued to explain they do not do any laser cutting or CAD work on the subject property, and they use a local metal cutting business to support them as a small business in Elkhart County. He stressed he does not do auto repair, they work on one truck at a time, and the truck can be there for over a month at a time. Further, he explained most of their deliveries are by UPS or small box trucks, though once in a while they will have a semi-truck delivery, but he can't control that. He continued to say they stick to strict business hours, and they work all indoors with the doors closed. However, he added when it gets really hot out then the doors will be open, and they will only work on personal vehicles on the weekends. He submitted signatures from neighbors in favor of the request [Attached to file as *Petitioner Exhibit #1*]. He read and submitted a letter from a neighbor [Attached to file as *Petitioner Exhibit #2*]. Mr. Norman asked what the check marks mean on the paper he submitted with the signature page. Mr.

Brandenberger explained that he submitted with the application a signature page of all the property owners he talked to, and the check marks show the location of where the neighbors live that signed the petition. He stressed not a single neighbor, that they spoke to, denied a signature in support of his business. Mr. Miller asked if he understands the Staff Analysis is for denial of the request for the fabrication business but approval to keep the building. Mr. Brandenberger explained he is not looking to add onto the building, and he just wants to continue doing the business he loves and support his family in this way. Mr. Miller stated he needs to understand that the issue is it is a very unusual situation to allow this type of business in a residential neighborhood. He went on to say the Board has to look at the use and if it can be allowed in a dense neighborhood. A slide show presentation was shown and presented by the petitioner. Mr. Warner asked how the welding fumes stay indoors. Mr. Brandenberger responded they have fans that blow the air out the back, and they don't weld often enough to cause a lot of fumes. Mr. Miller asked if vehicles will be sitting in the building for long periods of time. Mr. Brandenberger responded yes; they will spend months on one project. Mr. Miller asked if he only has 1 employee. Mr. Brandenberger responded yes. Mr. Norman clarified a vehicle pulls in, it gets customized, and then the customer comes to pick up the truck. Mr. Brandenberger stressed they only do customer suspension work. Mr. Miller reiterated this was a hobby that turned into a business. Mr. Brandenberger submitted another letter in support

[Attached to file as Petitioner Exhibit #3].

Tavis Amundson, 66068 Grasslands Ln., Goshen, was present in support of the petition. He stated he supports all of his neighbors, and they have been in the subdivision for 16 years. He went on to say the Brandenbergers have always been helpful and kind. He stressed they don't have any noise issues, and they don't do burnouts on the road or rev up the engines. He read a letter from another neighbor, Rick Yoder, 17574 Steppelands Ln., Goshen, in support of this request. Mr. Yoder's letter stated that there are other trailers and large vehicles in the neighborhood that haven't been complained about, and do not have issues. Mr. Amundson added in the 22 years he has lived in the neighborhood there have been other businesses run on properties. He continued to say the one business was a daycare that had lots of traffic in and out, and all the neighbors were very gracious with the business.

John Sparlund, 66260 Vegas Ct., Goshen, was present in support of this request. He stated he supports this passion as a business, and the Brandenberger's have always helped himself and his wife when needed. He stressed he highly promotes this being approved.

Bryce Whitehead, 17546 Steppelands Ln., Goshen, was present in support of this request. He stated he has lived in the subdivision for 10 years. He noted the box truck deliveries don't cause issues, as his wife has Amazon trucks in and out more than this. He stressed there are people that have demolition derby cars on trailers and in their driveways. Mr. Miller stated the reason this request is here is due to a complaint that was called in.

Julie Blake, 66151 Grasslands Ln., Goshen, was present in remonstrance. She submitted photos and a letter *[Attached to file as Remonstrator Exhibit #1]*. She stressed the Brandenbergers are very good neighbors, and they have all helped each other out when needed. She noted they have allowed Nick Brandenberger to store his personal truck in their garage. She continued to say a lot of the people in this subdivision are younger families that work during the day; therefore, they don't have any idea of what goes on during the day while they are not at home. She stressed the one picture she submitted shows her driveway and mailbox being blocked by the Brandenberger's vehicles. She submitted an aerial view of the subject property *[Attached to file as Remonstrator Exhibit #2]*. Further, she

stated in 2020 the shop was just finished being built, and then it was turned into a shop immediately. She went on to say they asked questions about the truck that was sitting in the Brandenberger's driveway at that time, and Elmer Brandenberger came over to talk to them and explained that they were working on that truck for Nick as his personal truck. She reiterated a subdivision is not the place for this business.

David Phillips, 66140 CR 27, Goshen, was present in remonstrance. He stated he wants to understand what the future of the subdivision will be if this is approved. He went on to say it is hard to delineate noise whether or not it is a business or a hobby. He asked who has the ability to make changes. Mr. Miller responded this meeting is where changes can happen and in Elkhart County, people can do what they want until they get caught by complaints from neighbors and that is how it is enforced by the Staff.

Rhonda Phillips, 66140 CR 27, Goshen, was present in remonstrance. She stated she personally likes all of her neighbors, though she does have a concern of going in her back yard and not being able to be out there very long due to the noise. She went on to say she feels nit-picky. However, she continued they live in a little residential area, and she can't hear the birds and wildlife.

Nick Brandenberger came back on to respond. Mr. Miller asked if he has seen the pictures that have been submitted. Mr. Brandenberger responded no. He looked through the pictures. He explained that in the pictures it is showing a lot of their personal vehicles. Mr. Miller stated there are a lot of vehicles in the pictures, but he stated he only works on one truck at a time. Mr. Brandenberger stressed he owns 5 vehicles and his dad owns 4 or 5 vehicles, and these aren't part of the business. Further, he stressed if the business is gone, their personal vehicles will still be on the property. Mr. Miller stated the pictures shown by the petitioners are different than what is being shown in the remonstrance pictures. Mr. Brandenberger reiterated if it comes down to stipulations to get this approved, then he will follow those rules. Mr. Miller asked if he was told no, he couldn't have the business here, would he be able to move out. Mr. Brandenberger responded he would need a year's time to move out.

Mark Blake, 66151 Grasslands Ln., Goshen, was present in remonstrance. He stated he put up a 6 ft. privacy fence to block out the noise and the employee who was going and urinating in the back yard where they could see him.

The public hearing was closed at this time.

Mrs. Cramer stated the Board doesn't usually give a for a time period for a business to be stopped. Mr. Miller stated he appreciates how passionate the petitioner is about his business, and he applauds the people coming forward in support. However, he continued the Board has never approved a business like this in an area as dense as this neighborhood. Mr. Auvil explained the business is completely unusual, especially as the business owner doesn't live on the property. Mr. Warner stressed he agrees that this high-density area is not the place for this type of business.

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

Motion: Action: Deny, 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 Use Variance to allow for an auto fabrication business be denied.

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

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

Absent: Randy Hesser.

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 on 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. 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 (dated 4/15/2024) and as represented in the Developmental Variance application.

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

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

Absent: Randy Hesser.

18. As a staff item, Mr. Auvil presented the request for a minor change to amend the site plan and construct a new building for an existing Special Use for *Fairfield Community Schools Building Corporation* (SUP-0939-2024).

Mr. Auvil stated this new building went a little over the allowed square footage percentage that Staff could approve. He continued to say this new building is 10.25 % over what is allowed and Staff can approve only up to 10%. He stressed Staff recommends approval of this minor change request.

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

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Ron Norman that the Board approve this request as a minor change.

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

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

Absent: Randy Hesser.

19. The meeting was adjourned at 12:00 p.m.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary