

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21st DAY OF NOVEMBER 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 Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Danielle Richards, 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/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of October 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Norman/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 *Max Sweers* for a Special Use for a retail greenhouse on property located on the South side of CR 2, 1,810 ft. East of CR 21, common address of 00000 CR 2 in Washington Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0670-2024*.

There were seven neighboring property owners notified of this request.

Dewey Thrash, 50635 CR 3, Elkhart was present representing the petitioner. Mr. Thrash stated that Mr. Sweers wants to put a greenhouse on the property for a small retail purpose. Mrs. Cramer asked about the operation hours for the retail business. Mr. Thrash stated that it would not start out as retail, but if it did become a retail business, the hours of operation would be from 8 a.m. to 5 p.m. as stated on the application. Mr. Warner asked about delivery trucks, and Mr. Thrash stated that they would provide a driveway and turn-around for delivery trucks. He continued saying that there would not be a lot of delivery traffic. Mr. Hesser asked if the petitioner plans to put a home on the property. Mr. Thrash responded that in the future Mr. Sweers would like to put a home on the back half of the property.

Sally Boyer, 19261 CR 2, Bristol, was present in remonstrance. She began by stating that she lives right across the street for Mr. Sweer's property, and she and her husband have lived there for over 40 years. She continued saying they are very concerned about a retail space in a residential neighborhood. She also stated that she is very interested in keeping the area a rural lakeside community for her family and future families. She then stated her concern about the impact to the wildlife habitat. She voiced another concern that there may be an increase in traffic affecting the safety of the community. She continued by stating that there is also a concern about what a retail space would do to property resale values.

Ray Cacini, 50854 Cornwall Rd., Bristol, was also present in remonstrance. He stated his main concern is that having one retail business on CR 2 would open the possibility for other commercial type businesses. Mr. Warner asked Mr. Cacini if there are any other retail businesses in the area, and he replied none that he is aware of in the 45 years that he has lived in the area.

Bill Paris, 50725 E. Indiana Lake Rd., Bristol, was also present in remonstrance. He stated that there have been other greenhouses within a 2-mile radius that have closed, because they could not make a go of it. Mr. Paris continued by saying that when a business closes it affects everyone in the neighborhood.

Mr. Thrash came back to the podium to address the concerns regarding the retail greenhouse. He continued by saying that nobody likes change. He also stated that Mr. Sweers has a dream of turning his plant hobby into a business, and that is why he purchased this property. Mr. Warner asked Mr. Thrash how far back from the road the greenhouse would be. Mr. Thrash replied that it would be roughly 650 ft. from the road.

Ray Sweers, 70639 Wayne St., Union, MI spoke in favor of the petition via the Webex. He started by saying that Max is his son, and he is very excited about having a retail greenhouse. He continued by saying initially his focus will be online sales of plants. Mr. Sweers also stated his son intends to build a home, on this site in the future. He continued by saying he intends to help his son Max set up the business. He also added that a greenhouse being built will enhance the beauty of the neighborhood. Mr. Hesser asked Mr. Sweers why the petitioner asked for such a large operation on the application, because he seems to only really want one greenhouse. Mr. Sweers responded they wanted to have the possibility of future growth, and they were advised to include possible future greenhouses for future expansion. Mr. Norman asked if there was a timeline for the extra greenhouses. Mr. Sweers responded by saying that it may never happen, but if it does, it will be way down the road.

The public hearing was closed at this time.

Mr. Norman asked staff if this request would even come to the Board if it was not a retail business. Mr. Auvil stated no it would not. He continued by saying that when a petitioner comes to the counter that the staff encourages them to show a max buildout, so they won't have to come back to the Board.

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 retail greenhouse 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 commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 9/20/2024) and as represented in the Special Use application.
2. Back in or backing out of semi tractor trailers from/onto CR 2 is prohibited.

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 *Danny L. Yoder & Vonda S. Yoder, as Trustees of the Danny L. Yoder & Vonda S. Yoder Joint Revocable Trust* for a Special Use for a home workshop/business for a taxidermy business on property located on the East side of CR 8, 830 ft. South of CR 10, common address of 54644 CR 8 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-0732-2024*.

There were 16 neighboring property owners notified of this request.

Danny Yoder, 54644 CR 8, Middlebury, was present for this request. Mr. Yoder stated that he wants to continue the taxidermy business that he started over 20 years ago on this property. He continued by saying that the traffic level will be low and not very noticeable. Mr. Hesser asked if he will just be doing game heads, and if so, how will he dispose of the carcass. Mr. Yoder responded he would have a dumpster, that will be taken to the landfill.

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 home workshop/business for a taxidermy business be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/11/2024) 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.

6. The application of *Lavon J. Miller & Anita D. Miller, Husband & Wife* for a Special Use for a home workshop/business for a woodworking 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 CR 43, 1,460 ft North of CR 34, common address of 62739 CR 43 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-0745-2024*.

There were eight neighboring property owners notified of this request.

Lavon Miller, 10328 CR 24, Middlebury was present for this request. Mr. Lavon Miller started by saying he has been building cabinetry for 6 years, and he wants to build a house, barn and shop to continue his cabinetry building business. Mr. Warner asked if there is a turnaround for

semi-trailers, and Mr. Lavon Miller stated yes, but there should be very little semi-trailer activity for the business.

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 home workshop/business for a woodworking business be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/11/2024) and as represented in the Special Use application.
2. Backing in or backing out of semi tractor trailers from/onto CR 43 is prohibited.

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. 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 10/11/2024) and as represented in the Developmental Variance application.

Note: 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 *Cleason Martin & Karen Martin, 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, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 19 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 56 ft. from the centerline of the right-of-way on property located on the West side of CR 11, 2,460 ft. South of CR 32, common address of 63465 CR 11 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-0768-2024*.

There were seven neighboring property owners notified of this request.

Cleason Martin, 25630 CR 36, Goshen was present for this request. Mr. Martin stated that he wants to have a barn and eventually have a horse on the property. Mr. Hesser asked how far he lives from the CR 11 address for the petition, and he responded that he lives about 1 mile away.

Mrs. Cramer asked Mr. Martin if someone will be living on the property, and he responded his son will eventually. Mrs. Cramer continued by saying that the questionnaire/application indicated that he wanted a horse and 3 cows. Mr. Martin stated he only intends to have 1 horse at this time. Mr. Miller asked Mr. Martin what he planned to do with the manure produced by the horse. He responded it will be composted in the garden.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser suggested the Board limit the total number of animals to 3 adult animals.

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 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 10/14/2024) and as represented in the Special Use application.
2. The request is approved with a maximum of three (3) adult animals (cows or horses), at any one time.

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 19 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 56 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).
3. The request is approved in accordance with the site plan submitted (dated 10/14/2024) 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.

8. The application of **Kevin L. Bontrager & Eva Bontrager, Husband & Wife** for a Special Use for a home workshop/business for a woodworking shop, for a Developmental Variance to allow for the total square footage for accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 8 outside employees (Ordinance allows 4) on property located on the Northwest corner of CR 28 & CR 37, common address of 13063 CR 28 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-0754-2024.

There were 11 neighboring property owners notified of this request.

David Bontrager, 59811 CR 37, Middlebury, was present representing the petitioner. Mr. Bontrager stated the state wants them to move the fence on the East side of the building to accommodate a driveway and give access to emergency vehicles. He continued saying that the petitioner needs to add on to the existing building to accommodate the woodworking business. Mr. Hesser stated that the petitioner seems to be pushing the envelope with the size of a home workshop/business and the number of employees being requested. Mr. Bontrager replied by saying the petitioner wishes to start out with a smaller number of employees but requested more for future growth.

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 a Special Use for a home workshop/business for a woodworking shop be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 10/14/2024) and as represented in the Special Use application.
2. Backing in or backing out of semi tractor trailers from/onto CR 28 & CR 37 is prohibited.

Further the motion also included that a Developmental Variance to allow for the total square footage for accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 8 outside employees (Ordinance allows 4) 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 10/14/2024) 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.

9. The application of *The Town of Bristol, Indiana* for an Amendment to an existing Special Use for a sewage treatment plant to allow for the construction of new structures and for a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of new

structures 85 ft. from the centerline of the right-of-way on property located on the North side of Vistula St. (SR 120), 4,300 ft. West of Division St. (SR 15), common address of 1300 W. Vistula St. in Washington Township, zoned R-1 & R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0771-2024*.

There were 50 neighboring property owners notified of this request.

Amy Mendoza, 100 E. Wayne St, South Bend, was present for this request. Ms. Mendoza stated this project will be a total replacement of the existing wastewater treatment plant. She explained the Town of Bristol came to get a permit for the project; it was flagged, and the Special Use was requested. Mr. Hesser asked Ms. Mendoza if they were replacing everything on the current wastewater treatment plant. She stated yes, but there will be no interruption in service. She continued by saying the new treatment plant will be more efficient and accommodate the necessary future needs of the Town of Bristol.

There were no remonstrators present.

The public hearing was closed at this time.

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

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 sewage treatment plant to allow for the construction of new structures 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 10/15/2024) and as represented in the Special Use amendment application.

Further the motion also included that a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of new structures 85 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. A variance from the developmental standards of the 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 10/15/2024) and as represented in the Developmental Variance application.

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

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

10. Mr. Auvil presented a staff item to rescind (SUP-0462-2017) a Special Use for RV Storage and shipping.

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 approve the request for rescission.

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

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

11. Mr. Auvil presented a staff item for a minor change to (SUP-0001-2024) for removal of condition #2 from the Special Use for an existing garden supplies business. The condition did not need to be on the Special Use (SUP-0001-2024) as it had been rescinded previously.

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 approved the request as a minor change.

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

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

12. The meeting was adjourned at 10:08 a.m.

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary