

MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 19TH DAY OF JULY 2018 AT 8:30 A.M.
MEETING ROOM DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Chris Godlewski, Plan Director; Matt Shively, Planner; Mae Kratzer, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

2. A motion was made and seconded (*Lyon/Campanello*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21th day of June 2018 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Campanello/Atha*) 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 ***Daniel & Kathy Emmans*** for a Special Use for a home workshop/business for vehicle repair and service on property located on the Southwest corner of SR 15 & State Line Rd., common address of 50779 SR 15 in Washington Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0322-2018*.

There were four neighboring property owners notified of this request.

Dan Emmans, 50779 SR 15, Bristol, was present for this request and explained Kathy Emmans is no longer associated with the property. He stressed he has cleaned up his property and installed a fence as requested. He then submitted pictures of the fence and property [*Attached to file as Petitioner Exhibit #1*]. He pointed out the fence location on the aerial, and he stressed the vehicles are not visible from the road. He added he plans to install additional fencing and trees for buffering. Mr. Emmans stated this request is before the Board, because his neighbor to the north filed a complaint. He explained they fix and build race cars, and his son owns two racecars in addition to his. He continued saying they are active in the local race track, and their friends also work on vehicles there. He stressed they typically take their waste with them, but he occasionally lets them leave scrap since it is worth a few dollars. He went on to say he lets the steel pile up and then takes it in for some extra money. Mr. Emmans pointed out the section where he stores vehicles, and he stressed he licensed and insures them all. He mentioned it is expensive to keep them plated and insured, but he wants to keep everything legal. He explained his father operated a junk yard in Mishawaka, and some of that mentality was passed on to him. Mr. Hesser asked how many vehicles he stores on site, and he responded around ten race vehicles. He added he also has several personal vehicles in his garage including a Corvette, -81 Camaro, and ø1 Regal he is restoring. Mr. Hesser mentioned the questionnaire refers to race vehicles, and he asked about noise. Mr. Emmans stressed there is noise, but they work within

reasonable hours and are located in the middle of nowhere. Mr. Lyon pointed out a neighbor to the north, and Mr. Miller added there is also a residence to the south. Mr. Emmans stressed his property is surrounded by woods, and his neighbor has walked back and forth past his property making rude remarks. Mr. Hesser also mentioned the questionnaire shows a number of employees, and Mr. Emmans stressed he does not have any employees. He explained he allows friends to work on their own vehicles, and they sometimes help him out. He continued saying he does not pay them, and the most he gives them is supper. Mr. Hesser pointed out the questionnaire states six employees are not occupants of the residence. Mr. Emmans responded some people live with him and pay rent. He stressed they helped him install the fence, but he believes he misunderstood the question. Mr. Hesser asked him the number of employees, and he responded just his son and himself. He went on to say the only pay they receive is from racing or scraping, and a lot of it goes towards welding gas ect. He explained his garage is always open, and he lets people use his tools and even shows them how they work. He stressed it is a friendship garage, and they try to help everyone out. Mr. Atha stated he does not appear to have any outside employees, and Mr. Emmans stated he is only given money to help refill oxygen tanks.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Lyon stressed the property has been significantly cleaned up, and Mr. Campanello added he likes that a fence was installed. Mr. Atha mentioned it sounds more like a hobby than a business. Mr. Miller stated he has seen the property fill up with cars, and a race garage is not quiet. He continued saying the petitioner can say it is limited to certain hours, but it seems like something is always happening there. He added he has been concerned about the number of vehicles there, and he did not realize how many people live close to the property. He stated he believes it sounds like a good operation, and he is not against people having a nice time working together. Mr. Hesser mentioned he is concerned with some of the terminology used, because this was referred to as a repair shop and also a junk yard. He stressed the county does not need a lot of private junk yards, and Mr. Campanello added he believes it already has several. He stressed it is not a junk yard, just the petitioner's storage. He added he believes Mr. Emmans is simply having a good time repairing race cars in the middle of nowhere, and he has made an effort to appease his neighbor. He added the neighbor to the north is in Michigan, and he does not have a problem with this location. Mr. Atha asked if a commitment can be added to limit the number of vehicles stored outside, and Mr. Hesser stated staff did not recommend any. Mr. Atha suggested adding one to prevent the business from growing out of hand. Mr. Hesser asked if this property was previously approved for wind turbines, and he responded yes.

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

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Joe Atha 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 vehicle repair and service 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. Approved in accordance with the site plan submitted (dated 5/15/18) and as represented in the Special Use application.

Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Joe Atha, Tony Campanello, Denny Lyon.

No: Roger Miller, Randy Hesser.

5. The application of **Laura M. Webb & Gary Bogner** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres located on the West side of Amber Valley Dr., 330 ft. South of Dunhill Crossing, East of CR 100, North of CR 22, common address of 57851 Amber Valley Dr. in Baugo Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0327-2018*.

There were 23 neighboring property owners notified of this request.

Laura Webb, 57851 Amber Valley Dr., was present for this request and explained Gary Bogner, her father, is on the mortgage but lives in Ohio. She stated she has had six chickens for over a year and does not want anymore. She pointed out the back property line on the aerial and explained it is a ravine that houses wildlife, including a deer that frequents her property. She also pointed out the location of the chicken coop and pen that is about 8x8. Mrs. Webb stated she replaces the straw once a month, and she stressed their area is kept very clean. She continued saying the chickens do not smell. She explained her six and nine year old want to be involved in 4-H, but they were limited on the types of animals allowed in the subdivision. She continued saying she spoke to her neighbor who is on the subdivision Board about the covenants and restrictions, and she did not see any problems. She went on to say the chickens had been on her property for a year when she posted a picture on Facebook that resulted in complaints from people in the neighborhood. She stressed the complaints are at the front of the subdivision, which extends for about half a mile. She added a rooster lives in the area, but it is not hers. Mrs. Webb stressed she only needs permission to keep six hens that do not bother anyone. She stated her daughter is starting 4-H this fall, and she will be showing chickens. Mr. Hesser asked if the subdivision has any covenants prohibiting chickens, and she responded yes. She explained she spoke to her neighbor who is on the Board, and she determined pet birds kept in cages are allowed. She stressed all of her immediate neighbors are in favor of this request, and they enjoy the eggs. She added she had not seen the covenants until today, and they do say chickens and birds are prohibited. However, she stressed they do allow pet birds kept in cages. She again stated the coop is kept clean, and the chickens do not harm anyone. Mr. Hesser asked if anyone else in the subdivision has chickens, and she responded no. She then pointed out the neighboring residences with privacy fences, and she has a 4 ft. chain-link fence, which is allowed in the subdivision. She continued saying she would not ask her neighbors to take down their fences or pools that do not conform to the covenants, and she stressed most people in the neighborhood are breaking the covenants. She added everyone interprets them to allow what they want. Mr. Campanello stated the Board does not act on covenants, and their decisions are made based on land use. Mr. Lyon asked how many chickens are currently on the property, and she responded six. He also asked if she plans to add anymore, and she responded no. Mr. Atha asked how she

disposes of waste. Mrs. Webb explained she dumps the waste in a closed-lid trash can, and she empties the bag once a week. She stressed the area is kept very clean.

Chad Dover, 30479 Dunhill Crossing, the president of the subdivisions Home Owners Association was present opposed to this request. He stated the woman mentioned by Mrs. Webb, Rachel, is on the Board. He continued saying she interpreted the covenants to allow the chickens. He understands the chickens were on the property for a year with no problems, but he received several complaints when the pictures were posted on Facebook since the subdivision prohibits livestock. He then read the covenant restricting birds, and Mr. Campanello pointed out pet birds are allowed. He then submitted a copy of the subdivisions covenants and restrictions *[Attached to file as Remonstrator Exhibit #1]* and a letter from the HOA Board *[Attached to file as Remonstrator Exhibit #2]*. Mr. Dover stated they have several people doing things prohibited by the covenants, and their procedure is to have a meeting to determine the next step after a complaint is received. He explained they held a meeting and decided to inform Mrs. Webb of the county's three acre rule for agricultural animals, and they were then informed of the Special Use request. He mentioned a new subdivision is being developed directly north of their subdivision. He continued that has caused several residents to contact them about cleaning up the subdivision. He stated he assumes several people plan to sell their residences and move due to the new subdivision. Mr. Dover added their Vice-president drafted and sent a letter to the petitioner. He went on to say she had twelve chickens at one point and brought the number back down to six after she was contacted. Mr. Hesser asked if anyone in the subdivision stores recreational vehicles that are prohibited, and he responded no. He then asked about the covenant violations he mentioned. He responded multiple properties have 6 ft. privacy fences, which are prohibited. Mr. Lyon asked about pools, and Mr. Dover responded there are no in-ground pools. Mr. Lyon mentioned pools require a 6 ft. fence, and he responded a few people have 4 ft. privacy fences with a 2 ft. lattice, which is allowed. He added a woman also has a salon in her basement, but she does not advertise it. Mr. Hesser stated he would assume some residents have larger antennas than allowed. Mr. Dover responded he is not aware of any large antennas in the subdivision.

Virginia McMillan, 30591 Dunhill Crossing, was present in remonstrance. Mrs. McMillan asked if approval of this request negates their restrictive covenants, and Mr. Hesser responded no. She then asked if a Special Use is required to have a goat, and Mr. Lyon responded yes. Mr. Hesser explained any property within the county with less than three acres requires a Special Use to have agricultural animals, and he stressed she is held to the same standard as the petitioner. Mrs. McMillan stated she moved to this neighborhood because of the smell and water contamination at her last residence. She stressed she chose this subdivision, because it has an HOA with restrictive covenants. She added the HOA paid to remove skunks from the subdivision last year, and she believes they could have been drawn to the area by the chickens. She continued saying chickens attract skunks, rats, and snakes, and she stressed she does not want to live around those animals. Mr. Campanello asked the location of her property, and she responded she lives towards CR 100. Mr. Campanello stressed he does not believe chickens located that far down the road attracted skunks to her property. She stressed chickens are known to attract skunks.

Irsyln Habib, came on representing Zahid Habib, 58929 Ox Bow Dr. and asked if approval for chickens also allows roosters, swans, geese, and ducks. Attorney Kolbus stressed roosters are prohibited, and Mr. Campanello stated the request is only for six chickens. It was

found Mr. Habib was speaking for the wrong request, and a petition for Zahid Habib was scheduled for later in the hearing.

Mrs. Webb came back on and explained she raised six chickens for her boyfriend's parents, because they did not have a rooster box. She continued saying they had a fox problem so she kept them until they were ready, and they have since been removed. Mr. Hesser clarified she is only asking to keep six chickens. Mrs. Webb also mentioned the skunk problem preceded the chickens, and she had one living under her shed the first year she lived there. Mr. Lyon clarified the immediate neighbors do not have a problem with the request.

The public hearing was closed at this time.

Mr. Hesser stated he believes the Board should consider subdivision covenants and restrictions when strictly enforced, but he does not believe that is the case here. He suggested modifying approval to the six chickens requested. He stressed Board's approval of this request does not supersede the covenants, and the neighboring property owners can pursue this as a civil matter, if they wish. He added the homeowners have the right to enforce the covenants and restrictions.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello 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 three 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. Approved in accordance with the site plan submitted (dated 5/21/18) and as represented in the Special Use application.
2. Limited to a maximum of six (6) chickens at any one time, no roosters.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

6. The application of **Larry A. & Doretta Miller** for a Special Use for warehousing and storing of RVs on property located on the West side of CR 37, 2,200 ft. North of CR 42, common address of 66601 CR 37 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0347-2018*.

There were eight neighboring property owners notified of this request.

Mr. Miller asked if staff has any stipulation on what type of surface the RVs are parked on. Mr. Godlewski responded the restriction of a dust free surface only pertains to M-1 zones.

Larry Miller, 66601 CR 37, was present for this request. Mr. Larry Miller stated a friend from Minnesota needed a place to park RVs, and he did not know a Special Use was required. He continued saying another person then decided to move his RVs off of CR 33. He added his neighbors did not have any complaints. Mr. Miller asked if the RVs are personal vehicles being

stored on his property. Mr. Larry Miller responded his friend from Minnesota needed a place to store the RVs remaining in the manufacturer's lot before the end of the month. He clarified he parks about two to three transport units on his property. Mr. Hesser asked which transport company utilizes the property, and he responded Rock Star Transport out of Minnesota. Mr. Hesser asked how many RVs he anticipates storing, and he responded ten to fifteen units. He continued saying they currently have fourteen units on the property, and he expects it to be minimal with a high of about thirty RVs. Mr. Hesser stressed the RVs can only be parked on the area designated as storage on the site plan. Mr. Larry Miller stated he has hauled in some stone, for the vehicles to turn around on, and the units are parked on the grass. He again stated he was not aware he needed a Special Use to park RVs on the property. Mr. Lyon asked if the property is fenced in, and he responded it is with a barbed wire fence. He added he will install two gates to the road, so it can be locked for security purposes. Mr. Miller stated his only concern with approval of this request is the operation growing past twenty-five RVs, and he does not believe the Board can limit the request to just one transport company. Mr. Larry Miller responded he is fine limiting the request to one transport company. Mr. Hesser stated the Board can limit the number of vehicles and parking area, but he does not believe they can limit the transport company. Mr. Campanello questioned the parking area, and Mr. Larry Miller pointed it out on the aerial. Mr. Hesser clarified the petitioner resides on the property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller stated the property is well kept, and this is a very low volume operation.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Denny Lyon that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for warehousing and storing of RVs 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. Approved in accordance with the site plan submitted (dated 5/29/18) and as represented in the Special Use application.
2. Limited to 25 RVs per acre.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

7. The application of *Andrew D. & Crystal D. Stickel* for a Special Use for a home workshop/business for auto detailing on property located on the North side of CR 38, 857 ft. West of SR 19, common address of 28145 CR 38 in Olive Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0362-2018.

There were six neighboring property owners notified of this request.

Andrew Stickel, 28145 CR 38, Wakarusa, was present for this request and stated he currently operates a small auto detail business out of an existing workshop. He mentioned the aerial is older, and he pointed out an area that is now blacktop. He added he has been working with the Environmental Health Department and set up a vacuum system that filters the wastewater. He then submitted documentation for the vacuum system *[Attached to file as Petitioner Exhibit #1]*, and he explained the waste is collected in a 55 gallon drum is then picked up to be disposed. He also submitted the Health Department's inspection reports *[Attached to file as Petitioner Exhibit #2]*. He added there were a few problems, but he corrected them, bringing the property into compliance. Mr. Lyon questioned the history in the Staff Report for denial of a shop, and Mr. Stickel responded that was from the previous owner. Mr. Hesser asked how long he has operated the building, and he responded since January of 2016. Mr. Miller mentioned the hours of operation listed include Sundays. Mr. Stickel explained he works when his wife is off, because he is a stay at home dad. He added he has not received any complaints about working on Sundays. Mr. Hesser pointed out the hours of operation list twelve hour work days, but it does not specify, which hours. Mr. Stickel responded it depends on the work he has that day typically 9 a.m. to 5 p.m. unless he has a bigger job then around 6 a.m. to 6 p.m. maybe 7 p.m. Mr. Miller asked if he has a contract with a specific company. Mr. Stickel stated he avoids working with dealerships, and he mostly deals with the public. Mr. Hesser questioned the sign, and Mr. Stickel mentioned a picture of the existing sign is attached to the application. Mr. Hesser pointed out the sign, which exceeds the size allowed for a home workshop/business, is a 2x3 double-sided. Mr. Hesser asked if a Developmental Variance for the sign is required separate from the home workshop Special Use. Attorney Kolbus stated the request should have included a Developmental Variance. Mr. Godlewski pointed out the Zoning Ordinance allows approval of a larger sign to be part of the Special Use, even though staff has historically required a Developmental Variance. He continued saying Staff needs to work out the details, but he believes the sign can be approved without a Developmental Variance. Mr. Stickel asked the size allowed, and Mr. Hesser responded 4 sq. ft. Mr. Stickel stated that is small, and he already receives complaints that his sign is easy to miss.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he would grant a sign square foot Developmental Variance. Mr. Godlewski stressed since that was not part of the application, the sign has to be approved as part of the Special Use. Mr. Hesser mentioned it could be misinterpreted later and may need to be taken care of at that time. Mr. Godlewski clarified the Zoning Ordinance does say that a sign over 4 sq. ft. can be approved as part of the Special Use site plan.

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

Motion: Action: Approve, **Moved by** Denny Lyon, **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 auto detailing 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. Approved in accordance with the site plan submitted (dated 6/4/18) and as represented in the Special Use application.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

8. The application of ***Zahid & Sumreen Habib*** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres located on the Northwest corner of Ox Bow Dr. & Pleasant Wood Ct., common address of 58289 Ox Bow Dr. in Concord Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0345-2018.

There were 32 neighboring property owners notified of this request.

Mr. Hesser asked what the Zoning Ordinance classifies as small fowl, and Mr. Godlewski suggested the petitioner provide the type and number of fowl he would like permission to keep. Mr. Hesser asked if anything smaller than a chicken is considered small fowl, and he request a definition. Mr. Godlewski stated he believes staff transferred what was listed on the application to the Staff Report. Mr. Hesser mentioned the number of small fowl is not limited under the staff recommendation, and Mr. Godlewski suggested a number be imposed.

Irsyln Habib, 228 Morton Ave., was present representing Zahid Habib, 58289 Ox Bow Dr., Elkhart. Mr. Habib stated he would like permission to keep roosters, swans, geese, ducks, and twelve chickens. Mr. Lyon stated the recommendation is to prohibit roosters. Mr. Hesser clarified the request is for roosters, swans, geese, and ducks, and Mr. Habib added they would also like twelve chickens. Mr. Lyon asked if he has spoken to any of the neighbors, and Mr. Habib responded he is not sure. Mr. Hesser clarified Mr. Irsyln Habib is not the property owner, and he explained Zahid Habib is his uncle. Mr. Atha asked if any animals are currently on the property, and Mr. Habib responded he is not aware of any. Mr. Hesser asked about restrictive covenants, and he was unsure.

Kathryn Nowicki, 58238 Ox Bow Dr., was present opposed to this request and pointed out her property on the aerial. Mrs. Nowicki stated when the Habibs first moved to the neighborhood they brought chickens that were then removed from the property. She continued saying they have been good, quiet neighbors, and she does not have any complaints. However, she stressed she is not interested in having a rooster, chickens, geese, ducks, or swans living next door. She added some natural water fowl frequent the area due to the river, but she does not want a farm community starting inside her neighborhood. She stated she is not aware of any neighborhood covenants, but she believes this is too many animals for this size property. Mr. Campanello asked if she is okay with just chickens, and she responded no. She stressed it is a quiet neighborhood, and she believes chickens will cause problems with the foxes, raccoons, skunks, and possums in the area. She added several people in the neighborhood walk their dogs without leashes, and they are concerned about loose chickens could be killed by passing dogs. Mrs. Nowicki stated a couple who lives down the road from the petitioners was also present in remonstrance, but they were unable to stay any longer.

Dan Yoder, 58398 Broadway Blvd., was present in remonstrance. Mr. Yoder stated he has lived at this property for 33 years, and his brother owned it for 10 years before him. He

mentioned he grew up on a farm and then moved to this neighborhood since it was middle-class, quiet, and clean. He continued saying things are changing, which he realizes is inevitable, but he left the farm for a subdivision. He stated their subdivision is a very quiet, peaceful, and beautiful neighborhood. He went on to say one of the residents had chickens several years ago, and they were removed from the property. He asked why the petitioners did not move to a farm to have chickens. Mr. Hesser asked if the subdivision has an active Home Owners Association with restrictive covenants. Mr. Yoder responded they had an HOA with covenants, but the property owners stopped. He continued saying RVs and boats were not allowed in driveways, but that is no longer the case. He stated they have considered starting an HOA again, but he does not believe anyone will care enough to keep it going. He stressed no one cares anymore, and he is frustrated to see trailers placed next to houses. He asked why the Board allows certain exceptions to the zoning, and he believes Elkhart County is changing. He explained he had a rooster, and he heard it every morning and evening. He added chickens make noise and smell, and he at one time had 60,000 on their farm. He stated he believes this request will allow more residents to have animals on their property, and he stressed this is a residential area. Mr. Campanello mentioned the Board makes decisions based on land use, and Mr. Yoder responded approval of this request will only open the door to more. He continued saying, if that happens, he will not want to live in this area anymore.

The public hearing was closed at this time.

Mr. Hesser mentioned the questionnaire assumes rabbits are allowed by right when kept indoors, and Mr. Godlewski responded that is correct. Mr. Hesser stated he believes covenants should be considered when they are regularly enforced, but that does not sound like it is the case here. He stressed this is too many animals for the size property, and he believes the Board has established a twelve chickens no rooster standard. He suggested limiting the request to twelve chickens only no roosters or other fowl. Mr. Godlewski asked if a time limit should be given to remove the remaining animals, and the Mr. Lyon pointed out the petitioner stated no animals are currently on the property. Mr. Campanello stated he believes twelve chickens are too many for this size property, and Mr. Lyon agreed. Mr. Hesser mentioned twelve chickens do not differ much from six.

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

Motion: Action: Approve, **Moved by** Denny Lyon, **Seconded by** Joe Atha 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 three 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. Approved in accordance with the site plan submitted (dated 5/25/18) and as represented in the Special Use application.
2. Limited to a maximum of six (6) chickens at any one time, no roosters.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

Mr. Lyon mentioned the petition is approved for six chickens, and any other animals would have to come back before the Board.

9. The application of ***Roman Jr. & Barbara D. Miller as Trustees of the Roman & Barbara Miller Revocable Trust*** for a Special Use for a ground-mounted solar array on property located on the West side of CR 100, 1,300 ft. North of US 6, common address of 72117 CR 100 in Locke Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0404-2018.

There were five neighboring property owners notified of this request.

Betsy Salyer, Solar Energy Systems, 8015 N. 1350 W., Nappanee, was present representing Roman Miller. Mrs. Salyer stated the petitioners are constructing a new residence, and the solar system will be placed 10 ft. off of the property line to meet setbacks and 30 ft. north of the residence. Mr. Hesser asked why the smaller section is a separate parcel. Mrs. Salyer explained the petitioners lived in the existing residence and sold it to their son. She continued saying they now are constructing a new residence on the smaller piece. She mentioned all of the proper permits for the residence have been pulled.

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** Roger Miller, **Seconded by** Joe Atha 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 ground-mounted solar array 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. Approved in accordance with the site plan submitted (dated 6/28/18) and as represented in the Special Use application.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

10. The application of ***John L. Miller*** for a Special Use for a home workshop/business for a cabinet manufacturing business on property located on the East side of CR 33, 760 ft. South of CR 40, common address of 66120 CR 33 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0331-2018.

There were nine neighboring property owners notified of this request.

John Miller, 66120 CR 33, Goshen, was present requesting permission to operate a cabinet business. Mr. Roger Miller mentioned the questionnaire states there will be no hook-ups for electric or gas, and he asked how he powers the operation. Mr. John Miller responded his

workshop is generator powered. Mr. Lyon asked about traffic in and out of the property, and Mr. John Miller stated he only serves ten to twelve customers a year. He added he typically meets his customers at their residence or the building site. Mr. Atha asked if the cabinets are constructed on this property, and he responded in his shop. Mr. Hesser clarified he typically delivers the cabinets to the job site. Mr. Campanello asked if his primary orders are residential, and he responded his work is almost entirely residential.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his only issue was the sign size, but he then realized it is only 20x10 inches.

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

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Denny Lyon 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 cabinet manufacturing 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. Approved in accordance with the site plan submitted (dated 5/22/18) and as represented in the Special Use application.

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

Yes: Joe Atha, Tony Campanello, Roger Miller, Denny Lyon, Randy Hesser.

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

11. The application of ***WK Farms (Buyer) & Egg Innovations, LLC (Seller)*** for a Special Use for warehousing and storing RVs on property located on the East side of CR 25, 2,640 ft. South of CR 46, common address of 69194 CR 25 in Jackson Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0403-2018.

There were 10 neighboring property owners notified of this request.

Michal Walton, 69194 CR 25, New Paris, was present for this request. Mr. Miller asked if he currently parks RVs on the property, and he responded yes. Mr. Hesser asked if Mr. Walton is purchasing the property, and he responded yes. Mr. Lyon clarified the property has access off of CR 25. Mr. Walton explained the RVs are parked in an old pasture field that is completely fenced in. Mr. Miller mentioned the road is not too heavily traveled. He then asked the acreage, and Mr. Walton responded 31 acres. He added the RVs will only be parked on a three to four acre section. Mr. Hesser clarified the parking area is 70x550. Mr. Miller mentioned the petitioner is limited to 25 RVs per acre, and Mr. Hesser stressed he is also limited to the parking location on the site plan. Attorney Kolbus pointed out the application limits the parking area to 3.61 acres, which would allow a total of 90 RVs. Mr. Atha questioned lighting,

and Mr. Walton responded he does not plan to install any lights or gravel. Mr. Lyon asked if the RVs are newly manufactured, and he responded yes. Mr. Hesser questioned the company, and he responded Synergy Transport from Jayco.

John Hornbostel, was present representing the seller, Egg Innovations, 4011 W. 100 N. Warsaw. Mr. Hornbostel stated Mr. Walton is in the process of purchasing the property, and they do not have any concerns with this request. He added that area currently a hay field, and it is not needed to support the chickens.

Brent Unger, 69032 CR 25, the property owner directly north of the petitioners came on in remonstrance. Mr. Unger submitted a petition signed by the neighboring property owners against this request *[Attached to file as Remonstrator Exhibit #1]* and pictures of the subject property *[Attached to file as Remonstrator Exhibit #2]*. He also mentioned the aerial only shows one egg laying facility, but two additional buildings have since been constructed. Mr. Unger stated 60 RVs are currently parked on the subject property. He continued saying they moved in the Thursday and Friday prior to Memorial Day, and he filed a complaint the next Tuesday along with a few other neighbors. He mentioned his main problem with this request is that it is unsightly and devalues the surrounding property. He explained the area has a lot of nice houses. He stated his residence was placed on the marked on May 21st, and the RVs showed up a couple days later. He stressed the RV probably deterred people from placing an offer. Mr. Atha asked if his residence is still on the market, and he responded it is pending. Mr. Unger added another concern is security. He went on to say the pasture is surrounded by farm fence, but it is not the typical six foot, barbed wire, chain-link fence seen around most lots. He stressed this operation could drawn undesirable people into the neighborhood. He added another concern is traffic, because CR 25 is a busy road. He explained RV transporters have to stop on CR 25 to unlock and re-lock the gate to the property, and he believes it poses a risk to other vehicles on the road. Mr. Unger stated he feels egg innovations does not care about the neighbors, and Mr. Hesser clarified they have three agricultural buildings on the property. Mr. Unger responded when the new buildings were constructed a berm was required. He went on to say during construction they pushed dirt over his property and onto the neighbors. He added the subject property is not very well kept, with high weeds and water in the pens. He stressed the RVs only made the situation worse. Mr. Atha pointed out the Mr. Unger's property and asked if he received the asking price for it. Mrs. Unger responded he believes he could have gotten more for the property, because he believes the RVs deterred potential buyers. He went on to say he probably could have made \$20,000 more, and the petitioner is probably receiving \$40 to \$50 dollars a unit for storage. He again mentioned the lot is unsecure, and most of the neighbors agree it should not be here. He stressed it does not fit the landscape of the area. Mr. Hesser asked about commercial operations along CR 25, and Mr. Unger responded he does not know of any. He then mentioned the trailers are parked on a wet area, and he believes they will be sitting in mud after any major rainfall. He went on to say he worries they would have problems removing the trailers from the property, and he also mentioned ground water contamination.

Jean VanGilder, 69265 CR 25, was present in remonstrance and pointed out her property on the aerial. Mrs. VanGilder stated the aerial is outdated, and the property currently has three chicken barns. She mentioned she lived at her residence for 42 years in October, and the neighboring property has gone through several changes the past few years. She explained she became concerned when large equipment showed up, and she was told by the county that a 520

ft. long chicken barn was being constructed. She added she understands agricultural buildings are allowed by right, but the operation brought several semis into the area. She stressed when pulling out they corrode the brim of the road by her mailbox, and she is constantly repairing it. She explained she has found dead chicken parts in her front yard and sirens at the facility go off at all hours. She continued saying one time a neighbor over 900 ft. down the road call her, because she could hear sirens going off. Mrs. VanGilder stated the previous owners sold the property to Egg Innovations, who constructed two additional 480 ft. buildings, which she understands is their right. She stressed she tries to keep the peace in the neighborhood, but several people travel in and out of the property. She believes multiple families are living in the residence, a shop residence, and an RV kept in the driveway. She mentioned she does not have anything against the petitioners, but when she researched WK Farms she found it is a real estate company that looks for quick fix and flip deals. She stressed this is not a fix and flip property to them. Mrs. VanGilder went on to say CR 25 has been heavily traveled since US 6 was cut off at CR 29. She stressed any traffic that took CR 29 into Goshen and New Paris now takes CR 25. She added the traffic on CR 25 is dangerous, and several young children live on the road. She explained the RV drivers have to park on CR 25 to open/close the gate, and they have a video of a pickup truck with a trailer slowing down to avoid hitting the RV sitting in the road. She continued saying this road is heavily traveled by truck/trailers and farm equipment. Mrs. VanGilder stated she understands the first chicken barn devalued her property, but she accepted that since it is allowed. She continued saying she worked hard to maintain her property, even working two jobs at times. She added she understands RVs need a place to park, but the residences in this area are valued around \$300,000 and \$400,000. She stressed there is no regard shown for the neighboring property owners, because 20 to 30 RVs just appeared and grew to 80 or 90. She added she has paid over \$90,000 in property taxes since owning this property, and she believes the road is well kept. However, she believes the neighboring property owners should have rights to prevent industrial parking lots next door. She respectfully asked that the Board keep RVs in industrial areas without surrounding residences and children.

Daren Holsopple, 68928 CR 25, was present in opposition and pointed out his property on the aerial. Mr. Holsopple stated he agrees with what has already been said. He mentioned the Staff Report findings, and he stressed providing another RV storage lot at this location will not provide a service to the community. He continued saying RV lots are popping up everywhere, and he believes a lot of the vacant properties in Goshen would better serve this use. He added the operation is not consistent with the neighborhood, and he stressed farms are the only industry from CR 46 to US 6, which is over three miles. He mentioned one person may have a small tent business, but it is far from industrial. He stressed the community is made up of residences, farms, and families. He explained he and another neighbor have three young children, and a young Amish couple just purchased the property behind them. He stressed several children live in this area. Mr. Holsopple mentioned the assessed values of the surrounding properties are as follows: \$240,000, \$274,000, \$277,000, \$300,000, \$282,000, \$324,000, \$360,000 and \$390,000. He added the property behind them sold before the RVs appeared for he believes over \$400,000. He stressed an RV storage lot does not fit in this neighborhood. He added the CR 25 is very hilly, which makes it difficult to see. He again stressed this request is not consistent with the surrounding area.

Douglas Moch, 68981 CR 25, was present in remonstrance and stated he has lived on his property since 1987. He stated he enjoyed seeing new neighbors build their residences, which helped increase his property value. However, he is concerned his property value will diminish from the RVs. He stressed when the transporters drop off and pick up RVs they drive at high speeds, which causes a safety concern for his grandchildren and the other children living on CR 25. He continued saying he does not want to see anyone injured on that road, and traffic has significantly increased since CR 29 was cut off from US 6. He added people also use this road to cut over to the new manufacturing buildings on CR 15. He stated he enjoys the community and his neighbors, and he does not want to see anything happen to the children.

Natalie Repogle, 68986 CR 25, was present against this request and stated she agrees with what has been said. She explained they moved to the area two years ago after saving for 13 years to move to the country. She stressed they love the neighborhood and have fantastic neighbors. She continued saying it was very disheartening to see the RVs move into a residential area.

Jim Craft, 69021 CR 25 came on in remonstrance and pointed out his property. Mr. Craft stated he has lived here since 2001. He mentioned it was stated that RV storage lots are typically approved in A-1 zoning districts, but they must be heard by the Board. Mr. Hesser stated RV storage requests are approved or denied on a case by case basis. Mr. Craft reiterated RV storage lots have to be approved by the Board, if a complaint is received. Mr. Hesser stressed RV storage is not a permitted agricultural use, and a Special Use must be requested and approved to legally operate one. Attorney Kolbus reiterated RV storage lots are not permitted by right in agricultural zones. Mr. Craft clarified the Board has denied RV requests in the past. He then stated he did not oppose the chicken houses, because he moved to the country understanding certain agricultural uses would be allowed. He continued saying he hoped he would not have a hog barn next door, but he understands that is allowed by right. He mentioned earlier in the meeting neighbors were upset about swans, ducks, and geese in a residential area, and he understands limiting that to only six chickens. He explained he would not mind having those animals next door, because he lives in an agricultural area. He stated he does not like the chicken houses, but he did not complain. He added he did not fight any of the neighbors' Developmental Variances to build on property that did not conform to the Zoning Ordinance. He stressed the RVs are different, and he feels it is an eye sore and safety problem. Mr. Craft stated he signed the petition, and he wants the Board to know he is not someone who complains very often. He then respectfully requests that the Board deny this petition based on the remonstrance.

Mr. Walton came back on and stated he understands the neighbors' complaints. He mentioned after the RVs were there his wife commented the view was not as nice. He stressed they decided to park RVs, because it made more money than having cows in the pasture. He again stated he understands and respects the complaints.

The public hearing was closed at this time.

Mr. Miller stated RV storage is generally allowed in an A-1 zone, but the Board has denied requests when several remonstrators were present. Mr. Hesser mentioned he believes a more offensive operation could go in on the subject property, but that is part of living in an agricultural area. He added he understands the neighbors' viewpoint, and not wanting commercial uses in this area. He explained RV storage is a huge need right now, and he understands temporarily storing them on agricultural property. He stressed in light of the

neighbors' concerns and the area he would lean towards denial of this request. Mr. Miller stated his major concern is the traffic on CR 25, and he added vehicles travel fast on that road. He added RV haulers are trying to move their cargo quickly. Mr. Lyon asked if the petitioner has a commitment to the transport company for storage, and Mr. Walton responded it is month to month. Mr. Miller stated he moves for denial based on the traffic and the neighbors' remonstrance.

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

Motion: Action: Denied, **Moved by** Roger Miller, **Seconded by** Denny Lyon that this request for a Special Use for warehousing and storing RVs be denied based on the following findings and conclusions of the Board:

1. The Special Use will not be consistent with the spirit, purpose and intent of the Zoning Ordinance. This use is inconsistent with the surrounding neighborhood.
2. The Special Use will cause substantial and permanent injury to the appropriate use of neighboring property. Approval of this request would cause an increased traffic concerns.
3. The Special Use will substantially serve the public convenience and welfare by providing additional RV storage.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser

Included as part of the motion the petitioner has until the end of August to remove all RVs from the property.

12. The application of *Mennonite Disabilities Committee* for an amendment to an existing Special Use for a multiuse development to update the site plan and increase sign size on property located on the Southeast corner of CR 16 & CR 43, common address of 10860 CR 16 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0396-2018.

There were 10 neighboring property owners notified of this request.

Stephanie Lehman, Signtech, 1508 Bashor Rd., was present for this request along with a representative from Mennonite Disabilities Committee doing business as Goldenrod. She explained the request is to update the signage to reflect their new branding and better promote events and activities at this location. Mr. Atha questioned the type of sign, and Mrs. Lehman responded it is a changeable copy message board. Mr. Hesser clarified the sign is not electronic. Mr. Atha asked about the property's current sign, and Mrs. Lehman responded it will be removed. She added the new sign is taller than the existing one to allow for better visibility at the intersection. Mr. Hesser asked the sign's location, and she pointed it out on the corner of CR 16 & CR 40. Mr. Miller mentioned it is the same location as the current sign.

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** Joe Atha, **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 multiuse development to update the site plan and increase sign size 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. Approved in accordance with the site plan submitted (dated 6/14/18) and as represented in the Special Use Amendment application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

13. The application of *Darrin L. & Sharon S. Miller* for a Special Use for a home workshop/business for a woodworking business on property located on the West side of CR 35, 385 ft. North of CR 30, common address of 61867 CR 35 in Clinton Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0395-2018*.

There were eight neighboring property owners notified of this request.

Paul Hochstetler, Freedom Builders, 54824 CR 33, Middlebury, was present representing the petitioners. Mr. Hochstetler stressed the operation is more of a hobby shop than a business. He explained the petitioner works in a factory during the morning and will operate his woodworking business in the afternoon. He continued saying he builds furniture and cabinets for his neighbors. Mr. Hesser mentioned the questionnaire lists no outside employees. Mr. Hochstetler also pointed out the operation is contained within an existing building. Mr. Miller asked if he does any industrial work, and Mr. Hochstetler clarified anyone can order furniture from him. Mr. Atha added the questionnaire mentions one customer a week, and Attorney Kolbus pointed out it also says no semi traffic. Mr. Hochstetler clarified his business is typically locals purchasing furniture. He added L. R. Nisley is just up the road, and he typically takes a buggy and trailer to purchase/transport his lumber for each job.

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** Joe Atha, **Seconded by** Denny Lyon 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 commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 6/14/18) and as represented in the Special Use application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

14. The application of **Harvey Yoder (Buyer), Daniel L. & Marsha D. Gingerich (Sellers), & Brian D. & Sheila R. Yoder** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres located on the South side of CR 24, 1,400 ft. East of SR 13, common address of 12226 CR 24 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0394-2018*.

There were 13 neighboring property owners notified of this request.

Paul Hochstetler, Freedom Builders, 54824 CR 33, was present representing the purchasers. Mr. Hochstetler explained Mr. Yoder would like to purchase this property, and they received permission from the current owners to file the petition. He explained the purchaser's son lives on the neighboring property, and he is offering a pasture easement for the subject property. He then submitted the recorded easement *[Attached to file as Petitioner Exhibit #1]*. Mr. Hesser clarified the shaded property on the aerial includes the easement, and Mr. Hochstetler explained the shaded area shows the entirety of both properties. He then outlined the easement on the aerial, about half an acre. He continued saying a small area on the subject property could be used for a pasture, but it would require the horses be fed hay year round. He added the extra pasture will help alleviate the need to feed hay. He explained he only has a small pasture at his residence, but the petitioner would prefer to have some pasture land.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Atha asked if the easement should be mentioned in the motion, and Mr. Hesser responded it is spelled out in the Staff Report.

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

Motion: Action: Approve, **Moved by** Joe Atha, **Seconded by** Denny Lyon 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 three 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. Approved in accordance with the site plan submitted (dated 6/14/18) and as represented in the Special Use application.
2. Limited to a maximum of two (2) adult horses at any one time.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

15. The application of **Noah A. & Rebecca C. Miller** for a Special Use for a greenhouse on property located on the East side of CR 43, 1,000 ft. South of CR 10, common address of 54738 CR 43 in York Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0407-2018*.

There were six neighboring property owners notified of this request.

Noah Miller, 54738 CR 43, Middlebury, was present for this request, and stated they would like to operate a farmer owned co-op. He explained about twelve dedicated growers along with a few who bring in surplus would like to use a shop on this property as a hub to sell produce at wholesale. He continued saying their produce is mostly distributed within Elkhart County. Mr. Hesser asked who purchases produce, and Mr. Noah Miller responded it is distributed to a few stores farmers markets but mostly Beacon Medical Group. He explained they fill a half-bushel box with in-season produce and deliver it to the back door of the hospitals for staff to pick up. Mr. Roger Miller clarified customers do not typically come to the property. Mr. Noah Miller stated they typically take a pick-up truck and trailer to deliver the produce. Mr. Atha asked the greenhouse location, and Mr. Noah Miller pointed out the building on the aerial. Mr. Atha asked if produce will be grown all winter long, and he responded they plan to try. Mr. Atha clarified the greenhouse lights will not be left on all night.

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** Joe Atha, **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 greenhouse 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. Approved in accordance with the site plan submitted (dated 6/18/18) and as represented in the Special Use application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

16. The application of **Todd Tyler & Frances K. Wise** for a Special Use for a home workshop/business for a sign business and for a Developmental Variance to allow for three outside employees (Ordinance allows two) on property located on the South side of Byrd Ave., 1,150 ft. West of CR 13, South of CR 18, common address of 23970 Byrd Ave. in Concord Township, zoned R-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0385-2018*.

There were 29 neighboring property owners notified of this request.

Todd Wise, 23970 Byrd Ave., Elkhart, was present for this request and stated he would like to operate a sign business. He clarified the business would include vehicle lettering, banners, and signs. He added some install will take place on site and others off site. He then mentioned they do not want a sign for their business, because they would prefer people email or call them rather than stopping at their property. Mr. Miller asked about semi traffic, and Mr. Wise responded they sometimes letter a semi truck but not the trailer. He added he has lived in the neighborhood for a while and would like to keep the peace. Mr. Atha clarified trucks will not back onto or off of the property. Mr. Wise explained they apply vehicle wraps, which they like to do onsite, but it takes place inside the building.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if the typical Developmental Variance condition is appropriate since no buildings are being constructed, and Mr. Godlewski responded it states where required. Mr. Hesser mentioned since it is not required for this petition. Mr. Atha asked if that condition is needed, and Mr. Hesser responded no. He pointed out the only deviation from a typical home workshop/business is the number of employees. Mr. Atha clarified the request is to limit the number of employees to three rather than two. Mr. Hesser asked why a Developmental Variance is required for this petition, but one was not required for a previous petition that deviated from the sign square footage allowed. Mr. Godlewski explained the discrepancy in the Zoning Ordinance specifically addresses signs. Mr. Hesser clarified the Developmental Variance needs to be approved, but the condition can be removed.

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

Motion: Action: Approve, **Moved by** Joe Atha, **Seconded by** Denny Lyon 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 sign 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. Approved in accordance with the site plan submitted (dated 6/12/18) and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for three outside employees (Ordinance allows two) be approved with the following condition imposed:

1. Approved in accordance with the site plan submitted (dated 6/12/18) and as represented in the Developmental Variance application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

17. The application of **Raymond Z. & Martha Oberholtzer** for a site plan amendment to an existing Special Use for an agri-business to add property and a building located on the East side

of CR 9, 2,350 ft. South of CR 36, common address of 64482 CR 9 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0397-2018*.

There were eight neighboring property owners notified of this request.

Raymond Oberholtzer, 64482 CR 9, Goshen, was present for this request and stated he needs more storage space to keep everything inside. He explained the extra room is needed for his greenhouse supplies for produce growers. He continued saying they tore down the greenhouse they used for storage, and they would now like to construct a larger building in the same location. Mr. Hesser asked about traffic, and Mr. Oberholtzer responded it fluctuates depending on the season. He explained more people tend to stop by on auction days since it is located a mile north of them, and they have around six customers on busy days. Mr. Hesser stated his concern was the driveway width, and Mr. Oberholtzer responded vehicles seldom cross paths. He continued saying the ground is flat, and a vehicle can pull off of the drive, if needed.

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** Denny Lyon 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 site plan amendment to an existing Special Use for an agri-business to add property and a 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. Approved in accordance with the site plan submitted (dated 6/14/18) and as represented in the Special Use Amendment application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

18. The application of ***John H. & Kati M. Schmucker (Landowners/Buyers) & Glen R. & Ruby F. Hochstedler Revocable Trust Agreement (Seller)*** for a Special Use for a home workshop/business for a woodworking business, for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage allowed by right located on the Northwest side of SR 119, 260 ft. Northeast of CR 44, common address of 57841 SR 119 in Union Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0406-2018*.

There were nine neighboring property owners notified of this request.

Mr. Hesser mentioned the Staff Report does not include any commitments restricting the number of animals or roosters allowed. He continued saying the questionnaire specifies the

number of animals, but it does not deal with prohibiting roosters. Mr. Godlewski suggested the Board add a commitment restricting the number and type of animals.

John Schmucker, 27841 SR 119, Wakarusa, was present for this request. Mr. Schmucker stated he would like to purchase an additional acre to give his children space to keep their animals. He added they would like to participate in 4-H, and he also plans to build a workshop for patio furniture to be sold off site. Mr. Hesser asked how he plans to deal with animal waste, and Mr. Schmucker responded the neighboring farmer will take all of the manure he can give him. Mr. Lyon clarified he has not purchased the additional property yet. Mr. Hesser questioned the types of chickens, and he responded some meat chickens in addition to the 4-H ones. He also asked if he would be opposed to a commitment prohibiting roosters, and Mr. Schmucker stated he does not plan on owning roosters. Mr. Atha asked if the proposed building is for the workshop or animals. Mr. Schmucker responded 60% of the building is for woodworking, and the remaining 40% is for the animals. Mr. Miller stated he sees no problem allowing roosters in this area.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he does not have a problem approving roosters on this property, because it is located in a largely agricultural area.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for 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 commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 6/18/18) and as represented in the Special Use application.

Further, the motion included that a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three 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 commitment was imposed:

1. Approved in accordance with the site plan submitted (dated 6/18/18) and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage allowed by right 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. Approved in accordance with the site plan submitted (dated 6/18/18) and as represented in the Developmental Variance application.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

19. The application of *Allen W. & Rachel A. Brubaker as Co-Trustees of the Allen W. Brubaker and Rachel A. Brubaker, Joint Revocable Trust* for a Special Use for a mobile home on property located on the East side of CR 11, 1,770 ft. North of CR 36, common address of 63646 CR 11 in Harrison Township, zoned A-1, came on to be heard.

Mr. Godlewski presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0405-2018*.

There were eight neighboring property owners notified of this request.

Allen Brubaker, 63646 CR 11, was present for this request. Mr. Brubaker stated they would like permission to place a residence on their property for his wife's parents, because they need some help physically. Mr. Hesser asked if they will place a mobile or manufactured home, and he responded a double-wide. Mr. Miller asked if it will be a permanent situation, and Mr. Brubaker responded just temporary while his in-laws are alive. Mr. Hesser clarified this request could be approved under the old standards, and he asked if it should be acted upon as an accessory dwelling. He continued saying it does not fit the accessory dwelling qualifications due to the type of housing. Attorney Kolbus suggested approving this request for the lifetime of the petitioners' parents. Mr. Hesser stated he does not believe the Board can name individuals as a commitment, and Attorney Kolbus responded they can limit the request to certain individuals. He explained the petitioner showed the need for this request due to a medical hardship, and he believes the parents' lifetime would be the time limit.

Kathleen Emerick, 63604 CR 11, was present in opposition and pointed out her property directly north of the subject property. She stated she has owned this property for sixteen years, and she plans to place it on the market within the next few weeks. She stressed she is concerned about how approval of this request will affect her property value, and her ability to sell it. She continued saying she cannot answer potential buyers' questions, because she does not know what is happening. She added the site plan shows the proposed structure located behind their existing garage, which is in direct view of her kitchen, dining room, and three-season room. She also expressed concern about how long this structure will be on the property. She again voiced her concern about the marketability of her property.

Mr. Brubaker came back on and stressed the area around the residence will be mowed and well kept. He added they also plan to plant shrubs between the proposed residence and the north property line. Mr. Hesser explained the Board discussed the possibility of allowing the second dwelling for the lifetime of Mr. Brubaker's in-laws. Mr. Miller asked if the proposed garage would also have to be removed at that time, and Mr. Hesser responded no. He stressed the main concern is the two dwellings on one parcel, and he clarified the petitioners' intention is to remove the second residence. Mr. Brubaker again stressed the landscaping of the area will be appealing..

The public hearing was closed at this time.

Mr. Hesser stated it meets the Commissioners' criteria for an accessory dwelling except it is a modular home. He continued saying as presented he does not see it as much of a deviation from a dumpy house allowed by right. He added the petitioner made adequate representations of his intent to remove the modular home when his in-laws are no longer using it.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a Special Use for a mobile home be approved based on the findings and conclusions of the Board:

1. Approval of the request will be consistent with the spirit, purpose and intent of the Zoning Ordinance. Mobile homes as accessory dwellings are permitted when there is a medical hardship.
2. Approval of the request will not cause substantial and permanent injury to the appropriate use of neighboring property.
3. Approval of the request will substantially serve the public convenience and welfare. A need for the mobile home was demonstrated by the petitioner's testimony.

The following conditions were 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. Approved for a period of three years with a one year review to verify compliance with the following:
 - a. The mobile home shall be adequately stabilized, skirted and have tie-downs installed.
 - b. The water supply and sewage disposal system shall be installed in accordance with County Health Department specifications.
 - c. Adequate provisions for storage shall be provided at all times to eliminate exterior storage of personal property, tools and vehicles, except licensed motor vehicles.
 - d. At all times, the premises shall be kept free of abandoned junk vehicles or parts thereof as described by Indiana State Law.
3. The Elkhart County Environmental Health Department must approve a wastewater plan prior to issuance of a permit.

The following commitments were imposed:

1. Approved in accordance with the site plan submitted (dated 6/18/18) and as represented in the Mobile Home Special Use application.
2. Mobile home to be occupied by Willard Wrightsman and/or Ruth Wrightsman.
3. Special Use granted for as long as Willard Wrightsman and/or Ruth Wrightsman reside in the mobile home.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

20. As a Staff Item, Mr. Godlewski presented a minor change request for *Cynthia J. Lederman* (DV-0758-2017) and *Todd and Cynthia Lederman* (SUP-0759-2018). He explained

the request is to reconfigure the property by moving two property lines, which will affect the site plan of two separate petitions. He continued saying the property is currently two parcels, and it will remain two parcels after the reconfiguration. He added staff recommends approval as a minor change. Mr. Hesser clarified the residence served by an easement and the tree farm have already been approved by the Board. He continued saying the request is to reduce the size of the tree farm and increasing the size of the residential lot. Mr. Godlewski stated the existing property lines are moving. Mr. Hesser clarified the intensity of the use will not increase.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Joe Atha that the Board approve the request as a minor change.

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

Yes: Joe Atha, Roger Miller, Denny Lyon, Randy Hesser.

21. The meeting was adjourned at 11:27 a.m.

Respectfully submitted,

Laura Gilbert, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary