

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 16<sup>th</sup> DAY OF DECEMBER 2021 AT 8:30 A.M.**  
**MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING**  
**117 N. 2<sup>nd</sup> STREET, GOSHEN, INDIANA**

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Chris Godlewski, Plan Director; Jason Auvil, Zoning Administrator; Danny Dean, Planner; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

**Present: Tony Campanello, Ron Norman, Deb Cramer, Randy Hesser.**

**Absent: Roger Miller, Brian Dickerson.**

2. A motion was made and seconded (*Campanello/Norman*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 18<sup>th</sup> day of November 2021 be approved as read. The motion was carried with a unanimous roll call vote.

**\*\*Mr. Dickerson arrived at this time\*\***

3. A motion was made and seconded (*Campanello/Norman*) 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 ***Lloyd Hochstetler & Mary Sue Hochstetler, Husband & Wife*** for a Special Use for a home workshop/business for a meat processing business on property located on the East side of CR 133, 1,025 ft. South of CR 52, common address of 71674 CR 133 in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0872-2021*.

There were nine neighboring property owners notified of this request. Lloyd Hochstetler, 71674 CR 133, Syracuse, was present for this petition. He explained he would like to do a small scale custom meat processing shop, with no retail. He continued to say that in 2019, when Covid hit, the slaughter houses were shut down, and friends needed their animals butchered with no opened butchers. He stressed that he has the equipment, as he has done his own meat processing for years, and then more friends were asking for him to butcher their animals. Mr. Campanello asked if the Health Department and IDEM were involved. Mr. Hochstetler responded yes. Mr. Norman asked if the permits were being secured through the proper channels. Mr. Hochstetler responded yes, he had gone through all departments to get the right permits in place. Mr. Dickerson asked how much volume he was doing. Mr. Hochstetler responded he would do 3 steers a day and some smaller animals, somewhere around 3 to 10 animals. Mr. Dickerson clarified this will be a custom meat processing business. Mr. Campanello asked how many employees. Mr. Hochstetler responded his brother and himself with a couple of his children. Mr. Hesser clarified that 2 employees are allowed by right. He then asked where on the site plan the shop is located. Mr. Hochstetler showed where the shop was located. Mr. Campanello clarified it was the 40 ft. by 48 ft. building on the site plan.

Steve Bolock, 72471 CR 133, Syracuse, was present in support of this request. He stated he has seen the shop, they keep the area clean, and have knowledge on how to butcher animals. He continued to say that this is needed and butchers can't be found in the area. He stressed this is good for the county.

John & Debra Landa, 71701 CR 133, Syracuse, were present in remonstrance. She stated they have lived in the country for 18 years and this is their retirement and investment home for their future. She continued to say they have concerns about noise, health, and appearance. She explained the noise issue is from the generator and it bounces off the building to cause them to hear it while they are on their front porch. She stated that last year she thought this would be a temporary situation, but now it is looking to be a full time. She went on to say there is a small refrigerator truck that runs all the time, and she is concerned about the start time for the business being so early in the morning. She stressed another noise factor, is the sounds of the animals being slaughtered by gun shots, and that isn't a normal country sound. She continued to discuss the health concerns of the animal waste being dumped in haul away trucks, as well as the animal carcasses being moved with a bob cat that is also used to move dirt. She went on to say that out behind the property a lot of trees got taken down, are in a pile and the smell of dead animals will attract vermin who will live in that pile of trees. She stated the concern about appearance is the refrigerated truck has Budweiser on the side of it and would like to have that painted in some way, a Coca-Cola machine was put in, and that will increase traffic and cause more noise. Mr. Norman asked how many years she's lived on her property. Mrs. Landa responded 18 years.

Lloyd Hochstetler came back on to respond. He explained the generator that was being used was in front of the shop, that he knows it was loud, but he put in a newer generator out behind the buildings with a noise system to help make it quieter. Mr. Campanello asked if mufflers can be put on. Mr. Hochstetler responded yes, they ordered a critical exhaust system to help minimize the noise. Mr. Norman asked what decibel level the generator is at. Mr. Hochstetler responded he wasn't sure. Mr. Norman asked if the county had a noise ordinance, as he knows the Town of Bristol has an 80 decibel noise ordinance. Mr. Hochstetler responded that will be addressed and he will ensure the noise is under 80 decibels. Mr. Hesser asked if the truck had the Budweiser logo on it, and how long the truck will stay. Mr. Hochstetler responded the truck was supposed to go inside the building, but it wouldn't fit so he took off the refrigerator unit, and it was put inside a cooler. He stressed the trailer will be painted or they will get rid of it. Mr. Campanello asked about the debris pile. Mr. Hochstetler responded the pile is sitting there because his neighbor burns wood and has a plan to cut it all up as soon as the ground freezes, and he will burn the brush that is left. Mr. Campanello stated that this is an odd Special Use for this area but the Ordinance does allow it to happen. Mr. Dickerson stated he wanted to know what the county's noise decibel ordinance. Attorney Kolbus stated it is 83 decibels. Mr. Godlewski stated the Commissioner's office and the Sheriff's Department are the ones who enforce noise ordinances, not the Planning Department. Mr. Dickerson stated that he feels for the fact the petitioner wants to have butcher shop to make a living but he also recognizes that the neighbors have a right to be respected in not having noise causing them issues. Mr. Hesser asked how set the petitioner is on the hours of the business. Mr. Hochstetler responded they just pulled a time off the top of their heads, but they don't have to start at 5am. Mr. Campanello asked if the generator runs 24 hours a day, 7 days a week. Mr. Hochstetler responded yes. Mr. Dickerson stated if the generator is under 83 decibels then it doesn't matter if

it runs all day or not. Mr. Hochstetler stated the gun shots can be remedied by using electric guns instead so the neighbors won't have to hear the shots happening.

There was one remonstrator present.

The public hearing was closed at this time.

Mr. Hesser stated he doesn't feel a time limit is necessary. Mr. Dickerson stated the noise issue is something the County can enforce with their tools, and it isn't something the Board has control over. Mr. Hesser stated it sounds as though they are taking steps to address the issues. Mr. Campanello stressed the time limit could be something they don't have to come back to the Board on, just have the Staff do a review. Mr. Dickerson stated that between The Board of Health, IDEM, Sheriff's Department, County Health Department, and County Commissioners they will help contain the noise issues. Mr. Norman stated the Staff Analysis states this won't cause substantial or permanent injury but there is a concern being made by a neighbor, and no one has been out to check the decibel levels. Mr. Dickerson stated that is an enforcement issue, whereas the Board is to vote on the usage. Mrs. Cramer stated that regardless what business he is running the generator could be used for his home life, and it wouldn't matter.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Brian Dickerson 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 meat processing 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 (11/2/2021), and as represented in the Special Use application, and as represented by the petitioner in the public hearing.

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

5. The application of **Mark S. Smith & Chandra Smith, Husband & Wife** for a Special Use for a ground-mounted solar array on property located on the North side of Jemian Dr., 810 ft. Northeast of CR 18, common address of 57867 Jemain Dr. in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0875-2021*.

There were 23 neighboring property owners notified of this request.

Seth Tracey, Power Home Solar, 1868 River Run Trail, Fort Wayne, was present representing the petitioner. He stated they were looking to put in a ground-mounted solar array to help the customer get the most bang for his buck. He continued to say this will help take one more person off the power grid and help offset the petitioner's power bill. Mr. Campanello stated it seemed as though the position of the array is well off of the house and the neighbor's property.

Kyle Bowen, 57875 Jemian Dr., Goshen, was present in remonstrance. He stated he got the letter in the mail and assumed, from the letter, that the array will be on his property. Mr. Campanello stated no, the array will be on the petitioner's property. Mr. Bowen stressed the letter was worded to make it seem as though the arrays will be in the ditch area of his own property. He continued to say he has no issues as long as it is on the neighbor's property.

There was one remonstrator 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** Tony Campanello, **Seconded by** Ron Norman that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for 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. The request is approved in accordance with the site plan submitted (11/14/2021) and as represented in the Special Use application

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

6. The application of *Charles T. Myers & Cynthia A. Myers, Husband & Wife* for a Special Use for a ground-mounted solar array on property located on the North side of Sandbrooke Dr., 725 ft. East of SR 13, common address of 11867 Sandbrooke Dr. in Benton Township, zoned PUD R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0894-2021*.

There were 20 neighboring property owners notified of this request.

Seth Tracy, Power Home Solar, 1868 River Run Trail, Fort Wayne, was present representing the petitioners. He explained the roof wouldn't be able to handle the solar array so they went with the ground mount option, and this won't be on any one's yard.

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** Tony Campanello, **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 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. The request is approved in accordance with the site plan submitted (11/15/2021) and as represented in the Special Use application.

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

7. The application of *Ana Cecilia Torres Cabrera* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres located on the West side of Michiana Dr., 195 ft. South of Treva St., West of CR 5, common address of 50633 Michiana Dr. in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0887-2021*.

There were 26 neighboring property owners notified of this request.

Ana Cecilia Torres Cabrera, 50633 Michiana Dr., Elkhart, was present for this petition. She stated she has chickens as a hobby for her children, and she has a rooster. Mr. Campanello asked how many chickens. Mrs. Cabrera responded she has 14 including the rooster. Mr. Campanello explained the Board never approves a rooster. Mrs. Cabrera stated she didn't know that until this Special Use. Mr. Campanello asked what she does with the waste. Mrs. Cabrera responded she throws it away, half in the garden and half in the trash. Mr. Hesser asked if chickens are in the coop or running around. Mrs. Cabrera responded the chickens are in the back yard, and it is fenced in so they can't get out.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello stated a time period to get rid of the rooster should be set. Mr. Dickerson stated it doesn't take too long to get rid of roosters. Mr. Hesser stated this also needs to be 12 chickens only.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Brian Dickerson 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 11/10/2021 and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens and no roosters, at any one time.
3. The petitioner has thirty (30) days to remove one (1) chicken and the rooster.

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

8. The application of **Mervin R. Hershberger & Ruth Hershberger, Husband & Wife** for a Special Use for a home workshop/business for a cabinet making business on property located on the East side of CR 35, 935 ft. South of CR 50, common address of 71174 CR 35 in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0886-2021*.

There were 10 neighboring property owners notified of this request.

Mervin Hershberger, 71174 CR 35, Syracuse, was present for this petition. He stated he would like to have a family home workshop to work with his children and serve the community with cabinets. Mr. Hesser asked where the cabinets get sold. Mr. Hershberger responded they are custom on site.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if the building that is marked shop is where he will be making the cabinets. Mr. Hershberger responded that was correct.

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 a home workshop/business for a cabinet making business be approved with the following conditions imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/10/2021) and as represented in the Special Use application.

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

9. The application of **Israel Flores Garcia** for a Special Use for commercial parking (tow-truck) on property located on the Southwest side of CR 45, 390 ft. Northwest of Old CR 17, common address of 22468 CR 45 in Concord Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0897-2021*.

There were 14 neighboring property owners notified of this request.

Mr. Auvil stated the petitioner's attorney has requested to table this petition. He continued to say there are a large number of complaints of commercial vehicles being on this property, as it appears there is no interest from the petitioner to address the issue. He stressed Staff does not recommend tabling at this time.

Jim Bartley, 22386 CR 5, Goshen, was present in remonstrance. He stated the petitioner has been a good neighbor until the last year, as now he is towing cars and trailers in and out. He explained the petitioner is leaving cars and tow trucks all over and anti-freeze on the ground. Mr.

Campanello asked if he's bringing wrecked cars in and leaving them on the property. Mr. Bartley responded yes, then they tear some apart, strip them down, and burn everything, including insulation and anti-freeze. He stressed he has no issue parking the tow truck, but it's what it's being used for is the issue. He went on to say there are already 8 to 10 junked cars there and how many more will come if this is approved. Mr. Norman asked if it's a tow-motor or tow truck. It was clarified the truck is a tow truck. Mr. Campanello asked how many of the complaints he has made of all the ones made this year. Mr. Bartley responded he didn't make any of them, but this is getting out of hand. Mr. Dean clarified this isn't all complaints, but code enforcement history.

Mr. Hesser stated the request to table is due to conflicting meetings, he appreciates Staff's concerns about this being delayed, but they are only asking for a 1 month delay. He continued saying Mr. Bartley will have an opportunity to come back again, even though his statements are now a part of the record. Mr. Dickerson stated that between now and then the petitioner is still compelled to remove the cars off the property, because this hasn't been approved. Mr. Campanello stressed it will take longer to remove cars with weather coming. Mr. Norman stated the Board will give 30 more days for him to continue to operate without permission. Mr. Hesser responded that isn't correct but that the point isn't that the Board is permitting this, it is just being postponed on their vote until January. Mr. Campanello asked if it gets denied today can the petitioner come back. Attorney Kolbus responded there is a time limit the petitioner would have to wait and it is either 6 months or a year, but wasn't sure which one. Mr. Campanello stated this feels as though he's been breaking the rules since April. Mr. Dickerson stated he doesn't like that there's been this many violations and it is just now coming to the Board. Mrs. Cramer stated he's asking for commercial parking, but he's running a tow business.

There was one remonstrator present.

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

**Motion: Action:** Table, **Moved by** Randy Hesser, **Seconded by** Brian Dickerson that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for commercial parking (tow-truck) be tabled until the January 20, 2022, Elkhart County Board of Zoning Appeals meeting, at the request of the petitioner.

**Vote:** Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0).

**Yes:** Brian Dickerson, Ron Norman, Deb Cramer, Randy Hesser.

**No:** Tony Campanello.

10. The application of *TPM Real Estate LLC* for an Amendment to an existing Special Use for warehousing to allow for a new building, building additions, and a decrease in property size on property located on the South side of CR 52, 1,030 ft. East of CR 133, in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0891-2021*.

There were 10 neighboring property owners notified of this request.

Mr. Hesser clarified that right now the permission is for the larger parcel, as a warehouse not as a home workshop. Mr. Auvil stated he wants to add a building, add an addition to two buildings, and make this one parcel in the subdivision.

Todd Michael, 13117 N. East Shore Dr., Syracuse, was present for this petition. He explained his neighbors are looking for a place to store their boats so he wants to add onto this building to help his neighbors have storage. Mr. Hesser asked if there will be any outside storage. Mr. Michael responded nothing will be outside.

Jamie Haines, 14384 CR 52, Syracuse, was present in remonstrance. She stated she moved to the country to get privacy and quiet. She explained that they attended the meeting last time and that her understanding that this was supposed to be personal use, but the units are being rented out. She continued to say that she was approached by the petitioner, and was told that boat storage was going to be added, but sold as storage condominiums. She stressed her concern is being landlocked in by barns, and at the last meeting it was told this wouldn't be allowed to be expanded. She went on to say that her children play in those fields, and this will cause more traffic and random people near her property, where they are in close proximity to the New Paris Speedway and this will bring in more people wanting to use the storage.

Lynn Emmert, 24945 North Shore Dr., Elkhart, was present in remonstrance. She stated she owns the property that her daughter, Jamie, lives on. She explained her husband was concerned about their property becoming surrounded by all of these buildings being constructed. She went on to say the Board at the time of last approval stated that there would be only a select number of buildings allowed. She then stated she was approached by the petitioner to buy out her property and she wasn't interested in selling her land, as well as she wasn't interested in buying the land behind her house. She stressed there have been 6 generations of family that have lived in that neighborhood, and it has always been farmland with one family residences. She reiterated she is concerned for her daughter's safety, as it gets dark in the country, and adding traffic and noise with decreasing privacy will not be good for the safety of her family's lives.

Mr. Hesser asked if Staff was aware of last approval being set without allowing more buildings. Mr. Auvil stated site plan showed a second future building that was approved at the meeting previous.

Todd Michael came back up to respond. He explained he originally bought farm land for his own use, then added another building to help his neighbors with their storage, and this was never set to be private storage. He stated he doesn't want to build behind his neighbor and if he were to subdivide his property off then he could sell them as condo storage sections. He explained he has several business owners that rent from him that want to buy out the buildings and land. He continued to say there is one race car but the owner doesn't work on them in his building, they are just strictly storage. He stressed he did approach the neighbors to buy out the land next to them due to the opposition from last meeting, and explained exactly what he was intending to do. He stated they wouldn't sell their property, so he offered her to buy the land, and they didn't want to buy the land behind them either. He reiterated he wasn't trying to bully anyone as he was trying to help them so it wasn't causing issues. He stated he keeps the buildings nice and clean, and he had a sign, but didn't know he needed a permit for a sign, so he took it down as soon as he knew he was breaking the rules. Mr. Campanello asked if a fence was going up around the building. Mr. Michael responded yes, there will be fencing and a gate where a code would be needed to get onto the property to the storage buildings. Mr. Hesser stated from the site plan this looks like he just wants to add on to what he did previously, and asked if he was adding onto the buildings that are already there. Mr. Michael responded yes, on the site plan it shows he wants to add on 50 ft. by 60



ft. to each of the two buildings towards the south and the new building will go east and west. He explained he will retain his own personal storage in one of the buildings.

There were two remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated with respect to what was granted previously it was set up as warehouse, not just set up as a personal use building, and by subdividing this it does limit and restrict. He stressed he appreciates the concerns, but this was previously granted so the petitioner is within his right, and the petitioner has tried to be cooperative. He continued to say that any future expansion would have to come back to the Board.

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 an Amendment to an existing Special Use for warehousing to allow for a new building, building additions, and a decrease in property size be approved with the following conditions imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/12/2021) and as represented in the Special Use Amendment application.

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

**Yes:** Brian Dickerson, Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

***\*\*Mr. Dickerson left the Board at this time\*\****

11. The application of **Charles Reitsma** for a Special Use for a home workshop/business for a machine shop and for a Developmental Variance to allow for 12 outside employees (Ordinance allows 2) on property located on the South side of CR 4, 880 ft. East of CR 15, common address of 22322 CR 4 in Osolo Township, zoned GPUD E-3, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0893-2021*.

There were six neighboring property owners notified of this request.

Charles Reitsma, 22322 CR 4, Elkhart, was present virtually for this petition. He stated he is looking to use the back shop, which has been on the property for a while, as a machine shop. He explained this would be helpful to bring goods to and from the shop, and use the home as a residence. Mr. Hesser asked if operation was already happening. Mr. Reitsma responded it is an extension of an existing company, but the shop isn't currently in use. Mr. Hesser clarified this is an existing business looking to expand to this building. Mr. Reitsma responded he is the owner of the business. Mr. Hesser stated that the request for 12 employees is a lot for a home workshop. Mr. Reitsma responded that is for further growth of employees, not to start out with 12, with amazon going in a half mile away down the road, he sees a need for growth, and this area is being

targeted for commercial use. Mr. Campanello agreed that is where this area is heading, as commercial only.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated a homework shop is smaller. Mr. Campanello stated in 10 years or less this will morph into needing a DPUD. Mr. Godlewski recommended the Board to think about a 2-3 year renewal. Mr. Hesser stated at that time of renewal that this would be changed to a DPUP. Mr. Norman stated that the neighbors are going to be in the middle of a commercial park, and the issue is the 12 employees versus the 2 that are allowed. Mr. Campanello stressed a time period would be a good idea, which allows this business to grow, then have it changed once it grows into a DPUD. Mr. Hesser asked how many years should be granted for renewal. Mr. Campanello responded 2 or 3 years would be good. Mr. Norman stated 3 years would be agreeable. Mrs. Cramer asked if 12 employees should be approved at this time though. Mr. Campanello responded that the petitioner mentioned that number is for growth, and as business grow slowly it shouldn't be an issue. Mr. Auvil stated the property to the west has a preliminary plan for a 200,000 sq. ft. building, and to the southeast has a preliminary plan for a commercial commuter bus parking terminal, and the petitioner wanting to impose a hardship of a homework shop is self-inflicted. He went on to say as noted any expansions or improvements would require a DPUD or Re-zoning. Mr. Norman stated if this was more residential there would be a concern for 12 employees, but since this is commercial area then that isn't a concern. Mr. Auvil stated CR 4 is under major improvement and expansion. Mr. Hesser clarified that Staff recommended approval with the 12 employees and idea of the time limit just forcing the petitioner to come back to review to see if he will need a DPUD or continue as a homework shop, and is in favor of the time limit. He continued that a choice will have to be made down the road, and to allow 12 employees this would have to be some extraordinary set of circumstances. Mr. Auvil stated that what is unusual is that this residential parcel is zoned E-3, as part of the original Elkhart East Development. He went on to say that any substantial improvements would require a DPUD, this is self-imposed, the petitioner understands what he is doing, and normally when a time limit is put on it is due to concerns and neighbors but he doesn't see that in this situation. Mrs. Cramer clarified that what is being talked about is this will be rezoned down the road so the time limit isn't necessary. Mr. Campanello stated the county is putting in curbs, gutters, and this area will all be manufacturing. Mr. Auvil stated the issue of the home workshop business is that it allows to uses on a property, residential and commercial, and there are two options do have this done with either the Special Use or DPUD options for future improvements or expansions. Mrs. Cramer stated she doesn't believe it needs a time limit.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **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 machine 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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/18/2021) and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for 12 outside employees (Ordinance allows 2) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (11/18/2021) and as represented in the Developmental Variance application.

**Vote:** Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).

**Yes:** Tony Campanello, Deb Cramer, Ron Norman.

**No:** Randy Hesser.

**Absent:** Brian Dickerson.

12. The application of ***Randall C. Kwilinski*** for an Amendment to an existing Special Use for a home workshop/business for a gutter installation business to allow for a freestanding electronic message board, for a Developmental Variance to allow for an electronic message board within 300 ft. of a residence, and for a Developmental Variance to allow for 17 outside employees (Ordinance allows 2) on property located on the West side of SR 15, 1,540 ft. South of US 20, common address of 57273 SR 15 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0889-2021*.

There were eight neighboring property owners notified of this request.

Randall Kwilinski, 57273 SR 15, Goshen, was present virtually for this petition. He explained he would like a sign out by the road, as they have never had one by the road. He continued saying that Mechanical Man, to the south, has a sign out by the road and was approved, and that his parcel is closer to the commercial side of SR 15. Mr. Campanello asked if Mechanical Man sign was illuminated. Mr. Norman responded yes, he drives by it all the time and noticed it is lighted. It was clarified it isn't an electronic message board, just a lighted sign. Mr. Campanello stated message boards are more for churches and schools. Mr. Hesser clarified that the subject property is at the top of the hill where the sign would be going. He asked if the request was for an electronic message board. Mr. Kwilinski responded yes, but if not possible then he is open to just an illuminated sign. Mr. Hesser asked how big Mechanical Man's sign was. Mr. Kwilinski responded it is a 4 ft. by 8 ft. sign. Mr. Campanello asked if Mechanical Man's sign was approved by the Board. Mr. Auvil explained the Mechanical Man sign was approved through the DPUD process.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he always has concerns with message signs, finds them distracting, and they are on a busy intersection. He stressed there have been issues with planning along that stretch of road with billboards and signs, and there have been no issues with a regular lighted signs. Mr.

Norman asked if there was a reason to not move forward with a DPUD. Mr. Hesser responded that the petitioner hasn't had to do a DPUP yet. Mr. Auvil stressed that Staff wouldn't object to a lighted sign, but not a message board. Mrs. Cramer clarified that Mechanical Man only got their sign because of the DPUD. Mr. Auvil explained it was granted as part of the DPUD with their plan to put in a commercial building. Mr. Hesser stated they are a lot closer to the road than the current petitioner. He then asked if the sign was the only thing being requested today. Mr. Auvil responded that this request is for the type of sign, location of the sign, and amending the amount of employees. Mr. Hesser asked how many employees are currently working. Mr. Kwilinski responded there is a total of 17 employees, but only 2 work in the building, the installers come in get material and leave for the day. Mr. Hesser asked if he sees that number being stable. Mr. Kwilinski responded with the way the economy is, he sees that as a good number. Mr. Auvil stated Staff has no objection to the number of employees being asked for.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Tony Campanello that this request for an Amendment to an existing Special Use for a home workshop/business for a gutter installation business to allow for a freestanding electronic message board be approved based on the findings and conclusions of the Board:

1. The Special Use Amendment will be consistent with the spirit, purpose, and intent of the Zoning Ordinance.
2. The Special Use Amendment will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 12.57-acre property in a moderately dense mixed-use area, and the property will remain residential in character.
3. The Special Use Amendment will substantially serve the public convenience and welfare.

The following condition was 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. Only a lighted sign is allowed, not an electronic message board.
2. The request is approved in accordance with the site plan submitted (11/10/2021), and as represented in the Special Use application, and as represented by the petitioner in the public meeting.

Further, the motion also included that a Developmental Variance to allow for an electronic message board within 300 ft. of a residence, and for a Developmental Variance to allow for 17 outside employees (Ordinance allows 2) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued with 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 (11/10/2021), and as represented in the Developmental Variance application, and as represented by the petitioner in the public meeting.

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

**Yes:** Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

**Absent:** Brian Dickerson.

13. The application of **Mario Saldivar** for a requested rescission of a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres for failure to comply with the condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the Southwest corner of CR 22 & Fairwind Dr., common address of 25700 CR 22 in Concord Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0111-2018*.

Mr. Hesser asked what the issue of this petition was for it to be tabled. Attorney Kolbus responded it was the site plan. Mr. Dean clarified it was tabled due to the site plan lacked details, and the commitment form was not recorded and given back. Mr. Hesser asked if Staff had knowledge of the commitment form being recorded. Mrs. Gilbert responded there is no way of knowing.

Mario Saldivar, 25700 CR 22, Elkhart, was present for this petition. Mr. Hesser stated the site plan has been submitted and was acceptable to the Staff, but the commitment form hasn't been signed and recorded. Mrs. Gilbert clarified the address it was sent to. Mr. Saldivar's daughter stated they will come into office to get a form, as they have not gotten the form in the mail yet. Mr. Hesser asked if Staff had a form currently with them. Mrs. Gilbert explained they have a copy of the form but it is stamped copy, they have to go to the Planning office to get a form to be recorded and signed. It was explained in detail where to go and how to get the commitment form signed and recorded, and then the petitioner won't have to come back. Mrs. Cramer clarified it was only tabled due to the site plan. Mr. Auvil asked whose name was on the Special Use. It was clarified the Special Use is in Mr. Saldivar's name. Mr. Auvil then explained Staff can record the form for them if they bring \$25 with them when they come to get the form.

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:** Deny, **Moved by** Randy Hesser, **Seconded by** Ron Norman that for a requested rescission of a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than three acres for failure to comply with the condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be denied.

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

**Yes:** Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

**Absent:** Brian Dickerson.

14. Staff Item- Standard retainer for Attorney Kolbus to continue being the Advisory Board of Zoning Appeals attorney for the 2022 year.

Mr. Hesser asked if there was a pay increase for this next year. Mr. Godlewski responded yes, it is 3%. Mr. Hesser stated Attorney Kolbus does an excellent job and appreciates his services.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Ron Norman that Attorney Kolbus stay on as the Elkhart County Advisory Board of Zoning Appeals attorney.

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

**Yes:** Tony Campanello, Deb Cramer, Ron Norman, Randy Hesser.

**Absent:** Brian Dickerson.

15. The meeting was adjourned at 10:12 A.M.

Respectfully submitted,

---

Danielle Richards, Recording Secretary

---

Randy Hesser, Chairman

---

Tony Campanello, Secretary