

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 18<sup>th</sup> DAY OF NOVEMBER 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:** Brain Dickerson, Tony Campanello, Randy Hesser, Ron Norman, Roger Miller.

2. A motion was made and seconded (*Norman/Miller*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 21<sup>st</sup> day of October 2021 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/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 *Tri-County Land Trustee Corporation (Land Contract Holder) & Dennis Yoder & Barbara Yoder, Husband & Wife (Land Contract Purchasers)* for a Special Use for a campground (3 units) on property located on the North side of CR 20, 865 ft. East of CR 19, common address of 20301 CR 20 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-0817-2021*.

There were seven neighboring property owners notified of this request.

Dennis Yoder, 20301 CR 20, Goshen, was present for this petition. He explained he wants to build cabins as rental units for people to be able to relax away from the hustle and bustle, as well as for families to get together. He went on to say they only want to do 1 unit at this time, though they asked for 3 units in case they wanted more, then they wouldn't have to come back to the Board for permission. He stressed this is a residential and low density area, and he wants to keep this area as peaceful and quiet as possible. He went on to say this area would offer some outdoor recreation, sitting on the porch watching horses, sunsets, campfires, and hikes through the woods. Mr. Hesser asked if there is an existing cabin. Mr. Yoder responded no. Mr. Norman stated he is looking at a 540 ft. measurement on the site plan and asked if that is the size of the proposed cabin. Mr. Campanello responded that measurement is the set back. Mr. Yoder stated the cabin will be 12 ft. by 24 ft. with a 6 ft. porch, and he will be using real logs to build it. He continued saying the cabins will have a bedroom, bathroom, and kitchen. Mr. Miller asked if the house on the site plan is his current house. Mr. Yoder responded yes. Mr. Miller then clarified the proposed current location is the place where the cabin will be built, and the second proposed location is where the other cabin will be built in the future. Mr. Yoder responded that was correct. Mr. Hesser asked where the third campsite was on the site plan. Mr. Yoder responded they didn't add that on the site plan as they are not doing that right now. Mr. Campanello asked if he will have to get

permits and approval for septic from Environmental Health. Mr. Yoder responded septic was approved already, but he is waiting on this approval for everything else to get started.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Campanello asked if approving this will open it up for people to have a second house on their property. Mr. Auvil responded no, people can have an accessory dwelling by right in an A-1 zone on a property over an acre. Mr. Hesser stated the accessory dwelling is still limited to a certain size. Mr. Hesser stated the petitioner is asking for one cabin, shows 2 sites on the site plan, but then stating he wants 3 units without having it shown on the site plan. He went on saying he doesn't feel as though a third unit should be approved without knowing where it would be located. Mr. Norman clarified that 3 units could be built. Mr. Auvil reiterated that is correct, but it is based on what the Board approves. He continued saying the Special Use was originally for a campground with 1 unit, Staff recommended he ask for more, and a motion could be made asking for a revised site plan showing where the third unit will be placed. Mr. Campanello asked if 2 units are approved, is there a way the petitioner could come back asking for the third unit as a minor change. Mr. Auvil explained a third cabin would be above the 20% threshold of the original site plan, and the petitioner would have to come back for a full Board meeting. Mr. Miller stated there is plenty of land, the size buildings being asked aren't an issue, and there is no one here to remonstrate, so he sees no issue with 3 units. Mr. Campanello stated he would approve 2 because of the petitioner having to come back, then a better site plan would be submitted showing that third unit. Mr. Hesser explained the third unit might be a tent, and the petitioner is unsure, if he will ever put it up, to him a tent would be a minor change. He continued saying he prefers to limit this to 2 units, as has been proposed.

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

**Motion: Action:** Approve, **Moved by** Ron Norman, **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 campground (2 units) 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 (10/7/2021) and as represented in the Special Use application.
2. The request is limited to a maximum of two (2) cabins.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

5. The application of *Andrew G. Martin & Susie Martin, Husband & Wife* for a Special Use for a home workshop/business for a meat processing business on property located on the North side of CR 36, 2,435 ft. West of CR 1, common address of 30425 CR 36 in Olive 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-0841-2021*.

There were four neighboring property owners notified of this request.

Charlie Zercher, Kindig & Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioner. He explained the meat processing is all custom to order as the customer will bring their animals to the property, then pick the meat up after it has been processed. He continued to say there will be no retail sales. Mr. Hesser asked why there was no history documented when the Martin's have been in front of the Board multiple times. Mr. Zercher responded that this is a different parcel than what the petitioners have brought forward in the past. He went on to say that this is a parcel that they own, but their son is going to live here and operate the meat business. Mr. Miller stated what was asked before by the Martins will not happen on this property. Mr. Zercher responded that was correct, as what was asked for before was Mr. Martin's trust business on a different property. Mr. Hesser clarified this isn't where the Martin's live. He continued to say that he thought a home workshop was limited to owner/occupant. Mr. Zercher reiterated the Martin's own the parcel, but the son lives there. Mr. Hesser stated the son isn't the one asking for the Special Use. Mr. Norman asked if the land was in the parent's name. Mr. Zercher responded that the current property owner is Eugene Martin, and Staff had him listed on as another party. He stressed that Eugene Martin lives at the subject property, but the land is not titled in his name. He added they can switch ownership if it needs to be in his name. Mr. Auvil stated the person who lives in the house or owns the property has to be connected to the business. Mr. Zercher stated Eugene Martin will be the one operating the business and living on the property, so, if it needs to be deeded in his name, they will get that done. Mr. Campanello clarified the son will operate the business and live in the house. Attorney Kolbus stated the permit won't be issued until the new deed is provided to Staff.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Ron Norman, **Seconded by** 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 meat processing 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.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (10/18/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

6. The application of **Gary Martin & Phoebe Martin, Husband & Wife** for an Amendment to an existing Special Use for an agri-business to allow for an addition on property located on the

South side of CR 40, 1,050 ft. East of CR 9, common address of 25772 CR 40 in Harrison Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0842-2021*.

There were eight neighboring property owners notified of this request.

Mr. Hesser asked if the Staff report is making the minor subdivision a requirement. Mr. Auvil responded yes, there are two things that can happen; a minor subdivision or a reassembly of the parcels. He continued to explain that sometimes a reassembly may not require a subdivision. He went on to say Staff has to get with the petitioner to see how they want to resolve this issue. Mr. Hesser stated he just wanted to make it clear that, if the Board adopts the Staff analysis, then that would be included. Mr. Auvil responded that is correct.

Charlie Zercher, Kindig & Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioners. He stated this is a simple request to add two additions to the existing building. He continued to say that the 40 ft. by 50 ft. addition will cover the existing hoist, and the 30 ft. by 36 ft. addition is to square off that area, as seen on the site plan. He went on to say the plan at this time is to combine the two parcels back together through a deed, instead of having to do the minor subdivision. Mr. Miller asked if the number of employees will change. Mr. Zercher responded there are no changes other than the building additions.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Ron Norman, **Seconded by** 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 an agri-business to allow for an addition be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (10/18/2021) and as represented in the Special Use Amendment application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

7. The application of **Matthew B. Brady & Sarah Brady, Husband & Wife** for a Special Use for a ground-mounted solar array on property located on the North side of CR 28, 350 ft. West of CR 13, common address of 24051 CR 28 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-0843-2021*.

There were 13 neighboring property owners notified of this request.

Matthew Brady, 24051 CR 28, Goshen, was present for this request. He stated he wants to install a ground-mounted solar system instead of a roof mount. He continued to say the array will cover 90-95% of their home energy usage and the rest will be from AEP. He explained that any

usage not needed will be put back into the network through AEP, and most of his neighbors have generators, though this will be less of an environmental impact. He added this is the perfect size home for his family and they foresee no future expansions.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Approve, **Moved by** Ron Norman, **Seconded by** 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 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 (10/18/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

8. The application of *Thomas C. Lantz & Jeanette F. Lantz, Husband & Wife* for a Special Use for a campground (1 unit) on property located on the Northeast corner of CR 27 & CR 50, in Jackson 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-0847-2021*.

There were 13 neighboring property owners notified of this request.

Thomas Lantz, 70755 CR 27, Syracuse, was present for this petition. He stated he wants to put in an RV campsite just for himself, not a campground as it was advertised. He explained there are normally 3 cars a day on his road with a couple of buggies, and it is a wildlife area. Mr. Campanello explained the reason why it is called a campground is so it can come to the Board for the Special Use. Mr. Lantz responded he understands, and it is listed as a 1 unit camp site, although his neighbors kept calling to ask why he was putting in a camp ground. Mr. Lantz stressed this is in the middle of nowhere on their property, and his wife wanted to be able to camp without having to go to a campground surrounded by other people. Mr. Campanello clarified this is something for him and his wife, and possibly their children with their RV. Mr. Lantz explained it would just be their RV, though they have friends from Florida who will come and stay in the RV on site. Mr. Hesser clarified the petitioner lives across the road but owns the property. He then asked what the two little cut outs on the front of the property are for. Mr. Lantz responded those are his neighbors. Mr. Hesser clarified this is for one unit. Mr. Lantz stressed the wildlife area can't have a permanent structure per DNR regulations, but since this is a mobile unit it's allowed.

Gary and Caroline Rogel, 70517 CR 127, Syracuse, was present in remonstrance. He stated they are concerned this will become a commercialized campground in the future after having one RV allowed. He continued saying they don't mind someone putting their camper in the middle of the woods, that isn't a problem, but they feel that being close to their property they would like to

see it stay as private as possible. Mr. Campanello explained it's classified as a campground, but the petitioner will only be allowed one personal RV. Mr. Rogel stressed he doesn't want to see this become commercialized with a lot of people coming in and running all over. Mr. Hesser stated if the petitioner wanted more than one RV, in the future, they would have to file again to ask for more. Mrs. Rogel asked if there is a date where this will be deleted from the property. Mr. Campanello explained that the Special Use is tied to the land, and if the land gets sold, this Special Use will follow the land. He added the Special Use will continued to be limited to 1 unit no matter who the owner is. Mrs. Rogel asked if the petitioner asked for more could he get more, because he already was approved 1 unit. Mr. Campanello explained they would get notice of that petitioner, and they could come again in remonstrance. Mrs. Rogel stressed she was told a different story as to the reasoning for the camper being there. Mr. Campanello reiterated this would have to come in front of the Board before any other unit could ever be put on the property. Mrs. Rogel asked if this will be temporary or will it stay until the owner wants to remove the Special Use. Mr. Campanello responded until the owner wants it removed. Mrs. Rogel then asked if there will be any regulations for the waste, or how it will be emptied. Mr. Campanello responded that is part of the camper, and it is the responsibility of the owner to take care of that.

Thomas Lantz came back up to respond. He explained the RV has tanks for waste disposal and when they get full there will be compost set up to get rid of it. He continued to say that for fun he looked up and saw there used to be over 100 cows on this land, and they produce 12 tons of waste. He stressed it wouldn't ever reach that amount. Mr. Godlewski stated human waste can't be composted, and the Health Department will regulate that.

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** 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 campground (1 unit) 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 (10/18/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

9. The application of *Leonid A. Rusavuk & Olga I. Rusavuk, Husband & Wife* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres located on the North side of Cole St., 460 ft. East of CR 13, common address of 23675 Cole St. in Concord Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0761-2021*.

There were 24 neighboring property owners notified of this request.

Leonid Rusavuk, 23675 Cole St., Elkhart, was present for this petition. He explained they have 10 chickens and need permission to have them. Mr. Campanello asked what they do with the waste from the chickens. Mr. Rusavuk responded the chickens are just in the coop. There was a language barrier issue with communicating waste disposal. Mr. Hesser asked if the chickens are maintained in the coop itself, or if they roam throughout the yard. Mr. Rusavuk responded the small chickens would get out of the cage until they are bigger, as they keep them just for the eggs. Mr. Hesser asked if the chickens can get into the yard. Mr. Rusavuk responded no. Mr. Campanello asked if there is a fence around the yard. Mr. Rusavuk responded is no. Mr. Campanello asked if the chickens go in the yard to eat bugs. Mr. Rusavuk responded no, the chicken coop has a fence, and the chickens don't get out. Mr. Campanello asked whether the neighbors complained about the chickens. Mr. Rusavuk responded no, they haven't had any problems even when the hens make noise in the morning.

Mr. Auvil read a letter that was given to Staff in remonstrance *[Attached to file as Remonstrator Exhibit #1]* from Harriet Sloop, 23680 Nora St., Elkhart. She stated that the property is not large enough, the chickens shouldn't be allowed, and the stench alone is offensive to where she can't enjoy being outside.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated this is a very small lot and thought there would be more objections. Attorney Kolbus stated the Board can approve a smaller number of chickens. Mr. Hesser explained the way this has been represented today is that the chickens are confined in a coop area, but the petition wasn't represented that way. Mr. Miller stated that the Board can make it a condition. Mr. Campanello suggested a commitment requiring the chickens stay in a fenced area not roaming free, and approval for 10 chickens not 12. Mr. Norman stated he was thinking 6 chickens. Mr. Campanello responded that they already have 10, and they should be able to keep them. Mr. Hesser pointed out that the questionnaire asks for 14 chickens, therefore he is okay with 10 chickens being allowed.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Brain 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 (9/15/2021), petitioner's testimony, and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of ten (10) chickens at any one time, no roosters.
3. The chickens must be contained in a fenced area at all times.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

10. The application of **Micheal Maichen** for a Special Use for a ground-mounted solar array on property located on the South side of E. Waterford St. (CR 40), 1,200 ft. West of SR 19, common address of 807 E. Waterford St. in Olive 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-0782-2021*.

There were 16 neighboring property owners notified of this request.

Micheal Maichen, 807 E. Waterford St., Wakarusa, was present for this petition. He explained all he wants to do is add a power supply. Mr. Hesser stated the proposed location is near the M-1 zone, and asked who owns that. Mr. Maichen responded that is a factory and they had asked about putting in a driveway last year. Mr. Hesser asked if he talked to them about his proposal. Mr. Maichen responded no he hadn't. Mr. Campanello stated he will still have to stay within the setbacks.

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** Brain 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 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 (9/23/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

11. The application of **Brent Dyer & Michelle L. Dyer, Husband & Wife** for a Special Use for warehousing of construction equipment on property located on the North side of CR 14, 500 ft. East of SR 15, common address of 18023 CR 14 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-0840-2021*.

There were nine neighboring property owners notified of this request.

Brent Dyer, 18023 CR 14, Goshen, was present for this petition. He explained he wants to build a bigger building so he can store everything that is currently in his garage. He went on to say that his garage has no space for vehicle parking, and his wife wants the garage. Mr. Campanello asked if this is mostly just for storage of construction company equipment. Mr. Dyer responded that is correct. Mr. Hesser asked if everything will be stored inside, so that nothing is left outside.



Mr. Dyer responded that is correct. Mr. Hesser clarified that the 24 ft. x 24 ft. garage is now packed full. Mr. Miller asked if he is the only one working there. Mr. Dyer responded yes, and normally he works offsite except when making a custom cabinet. He continued to say the cars are parked outside with the ATV, and it would look nicer if everything was parked inside. Mr. Miller asked how much of the wood finishing is done on site. Mr. Dyer responded that gets done offsite somewhere else; he puts the cabinets together but doesn't do the painting or have any chemicals.

Walter Clements, 17937 CR 14, Goshen, was present in remonstrance. He stated this used to be a dirt road, all agricultural, and he doesn't want to see a business interrupt the agricultural uses. He went on to say that more truck traffic adds to the busy intersection, and this is what happens when roads get blacked topped. Mr. Campanello explained this is just for a small building for storage, this is not a business. Mr. Clements stated he doesn't want to see a big construction building going in.

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** 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 warehousing of construction equipment 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 (10/18/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

12. The application of **Lavon R. Chupp & Marilyn K. Chupp, Husband & Wife** for a Special Use for a home workshop/business for a woodworking shop and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the North side of CR 28, 1,490 ft. East of CR 33, common address of 14981 CR 28 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0844-2021*.

There were nine neighboring property owners notified of this request.

John Schrock, MM Quality Construction, 60218 CR 35, Middlebury, was present representing the petitioner. He stated the son is taking over the shop for his dad, and they need to build a shop on his property for him to take it over. Mr. Hesser asked who lives on the parcel. Mr. Schrock responded Lavon, and he will own the business. Mr. Hesser asked when this building is built, will that take care of any outside storage. Mr. Schrock responded that is correct.

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** Brain Dickerson, **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 woodworking shop be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (10/18/2021) 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 that allowed by right be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (10/18/2021) and as represented in the Developmental Variance application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

13. The application of ***Jonathon Lehman & Sharon Lehman, Husband & Wife*** for a Special Use for a home workshop/business for a hardware store and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the Southwest side of US 33, 1,100 ft. Southwest of CR 37, common address of 69793 US 33 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-0773-2021*.

There were five neighboring property owners notified of this request.

Jonathon and Sharon Lehman, 69793 US 33, Millersburg, were present for this petition. He explained his intent is to add a retail sales area at their home, as they currently do swap meets and different events. He further explained they need more storage area, to display the items so the customers can see their products. Mr. Hesser asked if the new shop is an existing building or new. Mr. Lehman responded they have a permit for the shop, and it will be part shop and part horse barn. He went on to say the store will be on the east side. Mr. Hesser asked if they are adding on to that building as a second story. Mr. Lehman responded they will be adding an addition and a second story. Mr. Miller clarified what building on the site plan is the new retail shop. Mr. Hesser asked will there be semi deliveries, and if they can turn around on the property. Mr. Lehman responded there will be occasional deliveries, and there is room for semis to turn around on the property. Mr. Campanello asked when they will be ready for retail sales. Mr. Lehman responded

in the spring, and this will help them to be more customer friendly. He added they also do some lumber drying on site off of solar panels.

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** Brain Dickerson, **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 hardware store 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 (9/20/2021) 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 that allowed by right be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (9/20/2021) and as represented in the Developmental Variance application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

14. The application of **Lonnie Holub & Gloria Holub, Husband & Wife** for a Special Use for a ground-mounted solar array on property located on the West side of Holub Ln., 500 ft. North of Hackett Rd., in Elkhart Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0719-2021*.

There were 12 neighboring property owners notified of this request.

No petitioner was present.

Mr. Hesser asked if part of this parcel is in the City of Goshen. Mr. Auvil responded the house is in the City of Goshen. It was clarified the house was to the east. Attorney Kolbus stated the structure to the south is a garage. Mr. Hesser asked if the golf course to the south is in the city limits. Mr. Dean responded it is not. Mr. Hesser stated that the petitioner has a double lot. Mr. Dean clarified that this isn't a double lot, on the east side the lot falls in the small subdivision and on the west side the lot is unplatted. Mr. Hesser clarified this is two different parcels. He added his concern is that the placement of the solar array will be right where the house sits on the border of the city limits. Mr. Dickerson asked if it mattered if the petitioners were present. Mr. Hesser

responded no, as there are no remonstrators with concerns. Mr. Miller stated the panels will go next to an empty lot. Mr. Hesser reiterated no, the panels will be next to a house to the south. Attorney Kolbus stressed that isn't a house but a garage, and to the east of the garage is a house.

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** Brain Dickerson, **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 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 (9/1/2021) and as represented in the Special Use application.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

15. The application of **John M. Jones & LeEtta K. Ottman** for a 5 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 0 ft. from the east side property line on property located on the South side of CR 108, 2,100 ft. West of CR 3, common address of 29148 CR 108 in Cleveland Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0821-2021*.

There were three neighboring property owners notified of this request.

No petitioner was present.

Mr. Hesser noted the site plan does not show the building on the property line. It was clarified that the building is on the property line and that the drawing was done incorrectly.

Jim and Debra Pratt, 29110 CR 108, Elkhart, were present in remonstrance. Mr. Miller asked if the garage is 6 ft. from the property line. There was discussion about the garage being 6 ft. from the property line, but it was found to be 0 ft. Mr. Campanello asked if the storage building can be moved. Mr. Pratt responded yes, it can be moved, though the petitioner told him it will cost \$700 to move it. He added the petitioner doesn't want to pay that amount. Mr. Campanello asked if they paid for the survey to be done. Mrs. Pratt responded that is correct, and the petitioners use their property and driveway to get their vehicles in and out of the backyard. Mr. Pratt stated the Sheriff's Department can't make them move the other vehicles due to not being able to see them from the road, but once the shed is move they will be able to see the vehicles. He continued to say that this all started when the petitioners put in a septic field system with no permit. 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** Brain Dickerson, **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 5 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 0 ft. from the east side property line be denied.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

**\*\* It should be noted that Mr. Hesser recused himself at this time \*\***

16. Staff Item: Minor Change –Special Use - Middlebury Community Schools – request to amend the site plan to allow for construction of a career & technical education/band addition and for an athletic office addition to Northridge High School:

Mr. Miller asked what Staff considers this to fall under. Mr. Auvil responded Staff considers this to be a minor change.

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

**Motion: Action:** Approve, **Moved by** Tony Campanello, **Seconded by** Roger Miller that the Board approve the request as a minor change.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller.

**Abstain:** Randy Hesser.

**\*\* It should be noted that Mr. Hesser returned at this \*\***

17. 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*.

There were no neighboring property owners notified of this request.

Mr. Hesser asked if this petition was approved, but the petitioner is not complying. Mr. Auvil responded that was correct. Mrs. Gilbert clarified the revised site plan hasn't been submitted, therefore the commitment form hasn't been done. Mr. Hesser asked if the site plan was supposed to be for Staff approval or Board approval. Mrs. Gilbert responded for Staff approval. Mr. Miller asked for clarification on what hasn't been done. It was clarified that the petitioner hasn't turned in a revised site plan, and the commitment can't be sent until after the site plan is approved. Mr. Hesser asked when this was approved. Mrs. Gilbert responded this petition was approved on 4/19/2018, and the petitioner has been sent multiple letters. Mr. Hesser asked about animals. Mrs. Gilbert responded chickens only. Mr. Hesser asked if the petitioner has to wait 6 months to reapply, if this is rescinded. Mrs. Gilbert responded another petitioner wasn't made to wait 6 months. Mrs. Gilbert clarified this petition was for 2 horses and 12 chickens.

Mario Saldivar, 25700 CR 22, Elkhart, was present for this petition with a translator. Mr. Hesser explained that in 2018 they were supposed to provide a revised site plan to Staff, and that hasn't happened. Mr. Hesser explained to him what a site plan is and that after approval of the petition a revised site plan with updated information was supposed to have been turned in to Staff for approval. He continued to say that after the site plan is submitted there is a Commitment that needs to be signed and recorded. He reiterated that this was a condition that was set in place with the approval in 2018. Mr. Saldivar's translator asked if that can be started all over again. Mr. Hesser stated this hasn't been revoked, and the site plan needs to be turned in. Mr. Norman went into more detail on what is supposed to be on the site plan. There was discussion on what was still needed on the site plan for Staff approval. Mr. Hesser stated that he will move to have this tabled until next month, but if the petitioner doesn't submit what is needed to Staff, then this will get revoked.

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:** Table, **Moved by** Randy Hesser, **Seconded by** Brain Dickerson that this request 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 tabled until the December 16, 2021, Advisory Board of Zoning Appeals meeting to allow the petitioner time to submit a revised site plan and a recorded commitment letter.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

18. The application of *Jason Michael Brown & Vania Eva Brown, Husband & Wife* for a requested rescission of a Special Use for a home workshop/business for a construction business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage allowed by right for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the West side of CR 29, 1,000 ft. South of CR 14, common address of 56189 CR 29 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0632-2018*.

There were no neighboring property owners notified of this request.

Mr. Auvil explained that Mr. Brown informed Staff that he is no longer interested in pursuing a Special Use for the home workshop/business.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Rescind, **Moved by** Tony Campanello, **Seconded by** Randy Hesser that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a requested rescission of a Special Use for a home

workshop/business for a construction business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed the total square footage allowed by right be rescinded.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

19. The application of *Traco, LLC* for a requested rescission of a Use Variance to allow for an existing sign for an existing off site home workshop/business for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals on property located on the Southwest corner of CR 26 & CR 19, in Baugo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0099-2019*.

There were no neighboring property owners notified of this request.

Mr. Auvil asked to remove this from the Show Cause hearing, as a new site plan has been submitted.

There were no remonstrators present.

The public hearing was closed at this time.

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

**Motion: Action:** Dismiss, **Moved by** Ron Norman, **Seconded by** Roger Miller that this request for a requested rescission of a Use Variance to allow for an existing sign for an existing off site home workshop/business for failure to comply with condition(s) and/or commitment(s) imposed by the Board of Zoning Appeals be withdrawn by Staff, because the revised site plan was returned prior to the show cause hearing.

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

**Yes:** Brain Dickerson, Tony Campanello, Ron Norman, Roger Miller, Randy Hesser.

20. Staff Item: Minor Change –Special Use - Middlebury Community Schools – request to amend the site plan to allow for construction of a career & technical education/band addition and for an athletic office addition to Northridge High School was previously heard as item #16 on page 13.

20. The meeting was adjourned at 10:21 A.M.

Respectfully submitted,

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Danielle Richards, Recording Secretary

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Randy Hesser, Chairman

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Tony Campanello, Secretary