

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21st DAY OF OCTOBER 2021 AT 8:30 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

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

Roll Call.

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

Absent: Brain Dickerson, Tony Campanello.

2. A motion was made and seconded (*Miller/Norman*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 16th day of September 2021 be approved as read. The motion was carried with a unanimous roll call vote. Mr. Hesser stated that on the bottom of page 3, he is unclear if he made the comments about retail sales. The recording was later checked, and the minutes do correctly reflect what was said.

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 ***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; hearing tabled until the end of the 8:30 A.M. time slot.

See item #8 on page 3.

5. The application of ***Jefferson Civil Township*** for an Amendment to an existing Special Use for a fire station to allow for a storage building on property located on the Southeast corner of SR 15 & CR 20, common address of 58518 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-0754-2021*.

There were 23 neighboring property owners notified of this request.

Crystal Welsh, Abonmarche Consultants, 303 River Race Dr., Goshen, was present representing the petitioner. She stated that the intent of this petition is to allow for the construction a 2,000 sq. ft. storage building. She continued to say the approximate location is where the large pumpkin currently sits on the property. She explained the township trustee contacted Abonmarche for help with the site plan. She went on to explain the storage building will be accessed by a large garage door on the front side of the property, in order to be able to use the existing pavement. Mr.

Hesser asked for clarification on what she means by front side of the property. Mrs. Welsh responded the front side is the side that faces SR 15.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a fire station to allow for a storage building be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (9/13/2021) and as represented in the Special Use Amendment application.

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

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

6. The application of **Nicole Besemer** 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 Decker Dr., 245 ft. South of CR 4, common address of 52047 Decker Dr. in Osolo 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-0730-2021*.

There were 18 neighboring property owners notified of this request.

Nichole Besemer, 52047 Decker Dr., Elkhart, was present for this petition. She stated she submitted this petition in order to be able to keep the animals that she previously owned when she purchased the home. She explained they raise their own meat and eggs, which they share with neighbors, and the animals are for her children to have for 4-H. Mr. Hesser asked if she understands the conditions and commitments that the Staff is recommending. Mrs. Besemer responded yes. Mr. Hesser then asked how long it will take her to decrease the number of animals to 12. Mrs. Besemer responded she is down to 15 birds as of now, though the turkeys are being sent to the butcher in the next couple of weeks. She added she will be down to 12 at that time. Mr. Hesser clarified 12 fowl is the allowed amount moving forward. Mrs. Cramer asked if the animals are fenced in on part of the land contract property. Mrs. Besemer responded the original turkey area was on the second The Board examined said request, and after due consideration and deliberation: lot, which is in process of being purchased, but the chicken pen is on her lot. Mr. Norman asked about waste removal. Mrs. Besemer responded her husband uses the waste for compost.

Leslie Cunningham, Chara Corporation, 29588 CR 18, Elkhart, was present for this petition. She stated she is the seller of the second property, and she is in support of this request.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked why a sign was on the petition. Mrs. Besemer stated it was for when she was selling eggs, though the sign is coming down as they are just handing them out now, for free, to the neighbors. Mr. Hesser clarified that Staff had no issues with the sign.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following conditions imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (9/2/2021) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) fowl (chickens, turkeys, and ducks) any one time, no roosters.

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

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

7. Staff Item: Board of Zoning Appeals Time Change: Mr. Auvil stated that the Plan Commission Meeting approved Staff's request for a 9:00 a.m. start time beginning in 2022. He explained it is difficult for Staff to be at the Administration Building by 8:30 a.m. and be ready for the meetings to begin. He went on to say that the Hearing Officer also approved the meetings to being changed to the later start time. Mr. Hesser asked if the Administration Building is the meeting place for the foreseeable future. Attorney Kolbus responded yes. Mr. Hesser stated then he has no issues with this time change. Mr. Norman asked if the Planning Department received an appropriation for the technology to be updated in their building. Mr. Godlewski responded no, money isn't being invested into the building as the Commissioners plan to someday relocate the Planning Department to a new building. Mr. Hesser clarified this will start in January of 2022.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the Board adopt the new time change for the Board of Zoning Appeals meetings to begin at 9:00 a.m. starting January 2022.

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

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

8. 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.

No petitioner present at this time.

There were no remonstrators present.

Mr. Hesser stated he wanted to table this petition as he has questions about the array being right on the property line. Attorney Kolbus explained the Board generally, in the past, has acted on petitions without a petitioner present, but it is consistent to table a petition when there are questions from Board members. Mr. Auvil stated that proper notice was given, and the petitioners will have to show proper setbacks when they come in to get a permit. He went on to say this is a unique situation where half the property is in the city and half is in the county. He stressed based on the huge agenda for the Board next month he would rather not see this be tabled, and Staff can handle the setback issue. Mr. Miller asked if this petition will need to be re-notified. It was clarified it doesn't need to be re-notified.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the request for a Special Use for a ground-mounted solar array be tabled until the November 18, 2021, Elkhart County Advisory Board of Zoning Appeals meeting due to the absence of the petitioner. If the petitioners fail to appear for the November 18, 2021, meeting the Board will act on the petition in their absence.

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

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

9. The meeting was adjourned at 8:48 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Tony Campanello, Secretary