

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 15th DAY OF DECEMBER 2022 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
117 N. 2nd STREET, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: 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: Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser.

2. A motion was made and seconded (*Miller/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of November 2022 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Miller/Warner*) 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 ***Board of Commissioners of Elkhart County*** for a Special Use for a government facility (Soil and Water office) on property located on the East side of CR 7, 3,500 ft. North of CR 26, common address of 59358 CR 7 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-0843-2022*.

There were 11 neighboring property owners notified of this request.

Mr. Auvil read and submitted a letter from the petitioner [*Attached to file as Petitioner Exhibit #1*]. He explained that the property is adjacent to the Elkhart County Landfill and last month the Board had a request for the Concord Assessors Office for a government building as well. He went on to say that the county has acquired properties that are affronting the landfill for government use. He stressed the county wants to follow its own Zoning Ordinance.

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** 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 government facility (Soil and Water office) 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 (11/14/2022) and as represented in the Special Use application.
2. All signage will be approved by staff.

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

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

5. The application of *Stephen Jay Miller & Wilma Jean Miller, Husband & Wife* for a Special Use for a school and for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on property located on the South side of CR 18, 1,910 ft. East of CR 29, common address of 16400 CR 18 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-0846-2022*.

There were nine neighboring property owners notified of this request.

Steven Miller, 16482 CR 18, Goshen, was present for the petition. He stated they want to build a school house on the subject property, remove the existing single-wide, and construct a 12 ft. by 20 ft. addition the existing garage. He went on to say they are proposing to buy the existing land behind the subject property to make this a 3 acre parcel. Further, he explained if they have 3 acres they could do an Administrative Subdivision instead of a minor subdivision. Mr. Roger Miller asked how big the living space would be. Mr. Steven Miller responded it would be big enough for 2 teachers to live. Mr. Roger Miller asked if they own the property to the south or to the east of the subject property. Mr. Steven Miller responded he owns the property to the south, though he doesn't own property to the east. Mr. Hesser asked if they have 3 acres, would they need a Special Use for the keeping of the animals. Mr. Auvil responded that is correct, 3 acres is needed in an A-1 zone for the keeping of animals by right. Mrs. Gilbert explained when the petitioners submitted their application is was just for the smaller parcel that is less than 3 acres. She went on to say they don't have a recorded deed showing that they own 3 acres. Mr. Hesser asked if they plan on having 3 acres as part of the school. Mr. Steven Miller responded they do, but it was recommended by Mr. Ron Justice to turn this petition in to get the Special Use for the school. Mrs. Cramer asked if the Board grants the Special Use for the 3 acres, would the petitioners have to come back to rescind the Special Use. Mr. Auvil responded it would be an amendment to the Special Use for the school to included additional property. He continued to say the public notice is based on the property that is included in the application, and if a new tract of land is added then a new public hearing is needed. Further, he stated he is willing to waive the fee for the amendment that will be needed. Mr. Hesser asked if they would only have the 6 horses on the property. Mr. Steven Miller responded yes, it is just the horses that would be there during the school hours, not overnight.

Michelle Blough, 57643 CR 31, Goshen, was present in support of this petition. She stated she owns property on the north side of the subject property and she is in support of having a school put in this area. She explained she would like to see a recommendation to the highway department to put up new speed limit signs. She stressed she would like to see school zone signs be requested by the petitioner to the highway department in order to keep the children safe. She continued to say the speed limit is 40 mph, though there are no speed limit signs for a mile stretch on CR 29. She stressed there need to be signs to slow people down.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated he would limit this use to 6 horses in order to make sure it is clear there isn't any other use of animals allowed on the parcel until they expand the property to have 3 acres. Mr. Godlewski explained usually speed limit signs are only approved if studies require them to be present, and the highway department manages those request.

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

Motion: Action: Approve, **Moved by** Ron Norman, **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 Special Use for a school and 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.
2. A minor subdivision is required.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (11/14/2022) and as represented in the Special Use application.
2. The use is limited to a maximum of six (6) adult horses at any one time.

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

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

6. The application of *Pathway Assembly of God Church* for an Amendment to an existing Special Use for a place of worship to allow for additional signs on property located on the North side of US 20, 1,500 ft. West of Northridge Dr., common address of 13805 US 20 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-0839-2022*.

There were nine neighboring property owners notified of this request.

Josh Nice, Executive Pastor, 58545 CR 21, Goshen, was present for this request. He stated they have limited road frontage, and they see a potential to share positive messages and invitations for people to join them for worship. He continued to say they just want two simple signs to cover both the north and east sides of the property. Mr. Hesser stated the signs will be lighted but not electronic message boards. Mr. Nice responded no, they have no intention of putting in an electronic message board. It was clarified these will be canvas printed billboard style signs.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Cramer asked if they know the setback they have to have for the signs. Mr. Hesser responded they haven't asked for a variance, so they must know where to put the sign.

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

Motion: Action: Approve, **Moved by** Ron Norman, **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 an Amendment to an existing Special Use for a place of worship to allow for additional signs 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 recorded deed showing all 3 parcels in the church's name is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/09/2022) and as represented in the Special Use Amendment application.

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

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

7. The application of *James A. Goldsborough & Tina L. Goldsborough, Husband & Wife* for an Amendment to an existing Special Use for a wrecking yard to allow for a new building on property located on the South side of CR 12, 200 ft. West of CR 1, common address of 30290 CR 12 in Cleveland Township, zoned M-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0805-2022*.

There were 13 neighboring property owners notified of this request.

James Goldsborough, 30266 CR 12, Elkhart, was present for this petition. He stated he wants to put a building up next to his fence in order to store his trucks, because they aren't good in winter. Mr. Hesser asked if this was an expansion to the business. Mr. Goldsborough responded no, they are just needing a place to store his trucks to keep them out of the cold.

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 a wrecking yard to allow for a new building 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 revised site plan must be submitted for staff approval showing the entire 2.06-acre parcel, all the proposed building's setbacks, and the existing wrecking yard's dimensions.
3. A minor subdivision is required.

The following commitment was imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use Amendment application.

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

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

8. Staff Item- 2023 legal agreement for Attorney Kolbus to continue being the Advisory Board of Zoning Appeals attorney for the 2023 year.

Mrs. Gilbert stated that the Board needs to approve to keep Attorney Kolbus on as the attorney with a 3% raise for the coming year. Mr. Hesser stated Attorney Kolbus does an excellent job, and he appreciates his services.

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

Motion: Action: Approve, **Moved by** Ron Norman, **Seconded by** Randy Hesser he Board approve the 2023 agreement for legal services for Attorney Kolbus as presented by staff.

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

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

9. The application of **Jamar Slabach & Mary Slabach, Husband & Wife** for a Special Use for a school on property located on the East side of CR 43, 2,795 ft. South of CR 34, common address of 63542 CR 43 in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0841-2022*.

There were eight neighboring property owners notified of this request.

Mervin Stoltzfus, 60112 CR 41, Middlebury, was present representing the petitioners. He stated he is here on behalf of the community, because they need more schools. Mr. Hesser stated in the application that was submitted, there was reference to another property needing variances. He then asked if those variances have been filed for. Mrs. Gilbert explained that those variances are for the property being split off from the subject property. She went on to say those variances were filed separately. Mr. Stoltzfus explained they went ahead and filed for the Special Use, and if the Developmental Variance for the other property doesn't go through then they won't move forward on the school. Mr. Hesser stated if they don't get the 7 to 1 Developmental Variance approved then the house is non-compliant, and that backs the Board into a corner. Mr. Godlewski stated that if this petition is approved and the house is denied next month, then those property owners will have to find a way around needing a variance for the house. He continued to say that Staff will support the 7 to 1 on the parcel being split off from this subject property. Mr. Stoltzfus stressed they won't build the school, if the variance gets denied.

George Schmucker, 1315 E. Meadow St., Goshen, was present in support of this request. He stated he has no objections to the school and is in support of development of this community. He continued to say his only concern is a county drain that runs near the subject property, because it isn't clearly marked and could be a potential hazard.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Cramer stated that as far as the county drain, it isn't for the Board to regulate.

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

Motion: Action: Approve, **Moved by** Deb Cramer, **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 school 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 (11/22/2022) and as represented in the Special Use application.

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

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

10. The application of *Calvin A. Miller & Mary Kathryn Miller, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for a harness and farrier shop to allow for an addition, for a Special Use for a home workshop/business for a retail produce 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 West side of CR 116, 900 ft. South of CR 16, common address of 56687 CR 116 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-0844-2022*.

There were 47 neighboring property owners notified of this request.

Paul Hochstetler, Freedom Builders, 54842 CR 33 Middlebury, was present representing the petitioners. He stated he wasn't coming up with the same numbers for the square footage of the buildings, and he doesn't feel they needed a variance. He submitted a form showing the square footages of the accessory buildings he found on GIS *[Placed in file as Petitioner Exhibit #1]*. Mr. Dean stated there is no harm in moving forward with the Developmental Variance; this way they have the approved extra space, if they need it in the future. Mrs. Gilbert explained Staff goes off of the planner layout assessor's cards and also by the plans that are submitted in the application. Mr. Hochstetler explained part of the addition is for the harness shop to have showroom space, as well as for the produce as sales have grown and they need room for a cooler. Mrs. Cramer asked if the addition will only be on one end of the building. Mr. Hochstetler responded that is correct. He stressed the use isn't changing; they are just expanding the building.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Miller stated businesses keep getting bigger and bigger in the country, but this is on a lot of land and is handy for the neighbors. Mr. Hesser asked if they are expanding the number of employees. Mr. Hochstetler responded he doesn't believe they have any outside employees.

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

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Ron Norman that the Board adopt the Staff Analysis (as amended) 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 home workshop/business for a harness and farrier shop to allow for an addition and for a Special

Use for a home workshop/business for a retail produce 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 (11/14/2022) and as represented in the Special Use Amendment 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 based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 6.79-acre parcel in moderately dense residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were 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 (11/14/2022) and as represented in the Developmental Variance application.

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

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

11. The application of *John H. Eash & Velda A. Eash, Husband & Wife* for a Special Use for a home workshop/business for a meat processing business and for a Developmental Variance to allow for 5 outside employees (Ordinance allows 2) on property located on the South side of CR 42, 910 ft. East of CR 43, common address of 10820 CR 42 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-0817-2022*.

There were seven neighboring property owners notified of this request.

John Eash, 10820 CR 42, Millersburg, was present for this petition. He stated he wants to use an existing building and turn it into a meat processing business. Mrs. Cramer asked if he currently lives on the property. Mr. Eash responded that is correct. Mr. Hesser asked if he will be the one running the business. Mr. Eash responded yes. Mr. Miller asked if they will be running on a generator and if so, was the generator going to be in the building. Mr. Eash responded yes, the generator will be in the building with mufflers in place. Mrs. Cramer asked if 5 outside employees would be enough to run the business. Mr. Eash responded he hasn't started the business yet, so

he isn't sure if he will even need 5 employees. However, he wanted to cover his bases. Mr. Hesser asked what he will be doing with the waste. Mr. Eash responded he has a company that will come in and take all of the waste. Mr. Hesser asked if there is any parking available. Mr. Eash responded after he is done with the finished product he places it in freezers for the customers to pick it up, as this will only be custom cuts. Mr. Auvil responded generally Staff likes to see parking when there is retail or a store front, but in this situation there isn't any need for parking spaces. Mr. Miller asked if they are going to be slaughtering on site as well. Mr. Eash responded not at this time, but he would like to add on to the existing building for slaughtering in the future. Mr. Miller asked if that would require an additional Special Use. Mr. Auvil explained if it is less than 10% then Staff can approve the increase in square footage, if it is less than 20% of an increase it can be a minor change, or if it is more, then the petitioner will have to come back in front of the Board. Mrs. Cramer asked if he will be operating 6 days a week. Mr. Eash responded he put that down incorrectly, and he will only operate during the week days. Mr. Norman asked what kind of deliveries he will have coming to the subject property. Mr. Eash responded right now there will just be small box trucks until he gets the slaughter building built then there will be animal trucks.

Almeda Zumbrun, 67168 CR 43, Millersburg, was present in support of this request. She stated they fully support Mr. Eash wanting to put in the effort to do this business as it is needed.

There were no remonstrators present.

The public hearing was closed at this time.

Mrs. Cramer stated her only concern is that 5 employees is larger than a home workshop business. Mr. Hesser stated two of the employees would be part time employees and with this type of operation he feels that more employees are needed.

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

Motion: Action: Approve, **Moved by** Deb Cramer, **Seconded by** Steve Warner that the Board adopt the Staff Analysis (as amended) 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 (10/26/2022) and as represented in the Special Use application.

Further, the motion also included that a Developmental Variance to allow for 5 outside employees (Ordinance allows 2) be approved based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The additional employees will not increase the density of the area.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 9-acre parcel in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were 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 (10/26/2022) and as represented in the Developmental Variance application.

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

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

12. The application of *Carlyle Martin & Barbara Martin, Husband & Wife (Lessor) & Phares Martin (Lessee)* for a Special Use for a home workshop/business for a welding and repair business, for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the West side of CR 11, 1,490 ft. South of CR 50, common address of 70793 CR 11 in Union 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-0825-2022*.

There were 14 neighboring property owners notified of this request.

Phares Martin, 70793 CR 11, Nappanee, was present for this petition. He stated they started a little welding shop in 2018, and things have grown. He went on to say they make agricultural building components and now they need a little more room. Mrs. Cramer asked if he lives on the property. Mr. Martin responded yes. Mrs. Cramer asked if his brother also lives on the property. Mr. Martin responded no. Mr. Miller asked if big semi-trucks come to the property for deliveries. Mr. Martin responded yes, sometimes they will get semi deliveries. Mr. Hesser asked what size his sign will be, and if he can accommodate the size of sign the Zoning Ordinance allows. Mr. Martin responded he will make the sign the size that is allowed. Mrs. Cramer asked if he owns the property. Mr. Martin responded no, he doesn't own the property. He went on to say there is a rental agreement and a business agreement with his dad that he can have a home workshop on the property. Mrs. Cramer asked if he wanted to put in an addition to one of the buildings. Mr. Martin responded yes, he wants to put in an addition for more room for the business. It was clarified that Mr. Martin didn't have to own the property in order to run the home workshop. Mr. Norman stated there looks to be plenty of area for semis to turn around on the property. Mr. Martin stressed there is plenty of room and they also farm the land where semis come in all the time for those purposes.

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** Deb Cramer, **Seconded by** Randy Hesser that the Board adopt the Staff Analysis (as amended) 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 welding and repair 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 (10/31/2022) and as represented in the Special Use application.

Further, the motion also included that for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be approved based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The variances will reduce the need for outdoor storage and will not increase the density of the area.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 36-acre parcel in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.

The following conditions were imposed:

1. Variances from the developmental standards of the Zoning Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (10/31/2022) and as represented in the Developmental Variance application.

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

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

13. The application of *Marcus W. Miller & Ruth Ann Miller, Husband & Wife* for a Special Use for a home workshop/business for a storage barn business and for a 7:1 depth-to-width-ratio Developmental Variance to allow for the construction of a residence on property located on the South side of CR 4, 2,050 ft. West of CR 131, in York Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0845-2022*.

There were 11 neighboring property owners notified of this request.

Glen Bontrager, 51583 CR 29, Bristol, was present representing the petitioner. He stated the Miller's bought the land this summer and are wanting to build a home and business on the new property. Mr. Hesser asked if there were any buildings on the property. Mr. Bontrager responded no, there is just a silo. Mr. Hesser asked how long the completed products will be stored outside. Mr. Bontrager responded the product will only be stored outside for about a week. Mr. Hesser asked if they are building to order, or building to stock the product until it is sold. Mr. Bontrager responded they won't have a showroom but there will be place outside to store the product until it is sold. Mr. Norman clarified they would be selling their product to places that have retail space.

Mr. Hesser stated there was an email from a remonstrator and asked if the petitioner had seen the email. Mrs. Cramer asked if Marcus and Ruth Ann Miller will be living on the property and running the business. Mr. Bontrager responded yes, and there is no plan for outside employees at this time.

Mr. Auvil read and submitted an email from a remonstrator. *[Attached to file as Remonstrator Exhibit #1]*

Mr. Bontrager came back on to speak. He stated everything is inside the building so there isn't a lot of noise or material stored outside. Mr. Norman asked what will happen to the scrap material. Mr. Bontrager responded there will be a dumpster that will get hauled off of the property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Warner stated he feels Mr. Bontrager has addressed the remonstrators concerns 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 a Special Use for a home workshop/business for a storage barn 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. No business operation can start until a certificate of occupancy is issued for the proposed residence.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/14/2022) and as represented in the Special Use application.

Further, the motion also included that for a 7:1 depth-to-width-ratio Developmental Variance to allow for the construction of a residence be approved based on the following findings and conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. This is an existing parcel.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 19.45-acre parcel in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property. The variance will allow for the maximization of residential land use.

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

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

14. The application of *Conscientious Cleaning LLC* for a Use Variance to allow for a cleaning business on property located on the North side of Plainfield Dr., 760 ft. West of CR 5, common address of 27597 Plainfield 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 #UV-0828-2022*.

There were 25 neighboring property owners notified of this request.

Jeff Stankavich, 24099 May St., Edwardsburg, MI, was present for this petition. He stated he wants to use the property as storage in order to keep the business separate from their residence. Mr. Hesser asked if there was a house on the property now. Mr. Stankavich responded no, that was split off from this subject property. Mr. Warner asked if there were any deliveries going to this property. Mr. Stankavich responded no, there will be no deliveries or employees there. He went on to say he will maintain the property all year round to keep it looking nice. Mr. Hesser asked if when they bought this property, it had been already split from the property next door with the house on it. Mr. Stankavich responded that is correct. Mr. Hesser asked what the building was used for previously in the past. Mr. Stankavich responded he doesn't know for sure as the building was empty when he bought it. Mr. Norman clarified that they are just keeping cleaning supplies and equipment in the building, and they will be the ones to restock the supplies. Mr. Hesser asked if there are any businesses nearby in the area. Mr. Stankavich responded less than a mile away there is the airport trucking terminal and on CR 10 there is a car dealership. Mrs. Cramer asked if there was a driveway on the property. Mr. Stankavich responded no, they just drive through the yard. He continued to say they don't go there very often in the winter, and they only go there when necessary. Mrs. Cramer asked if they have heat in the building. Mr. Stankavich responded no they only have electricity, and they don't keep liquids on site because they will freeze in the winter.

Marie Mast, 27580 Plainfield Dr., Elkhart, was present in remonstrance. She stated the garage that is existing was used as storage previously. She stressed her concern is the chemicals being stored on the property that can get into the water system. She went on to say there is no heat to control the climate in the building.

Mr. Stankavich came back on to respond. He stated there will be no hazardous chemicals that would hurt anyone, they will just store bleach but not in this building. He stressed the floor is a hard surface area.

The public hearing was closed at this time.

Mr. Hesser stated the 1988 appeal doesn't have anything to do with today's petition. There was discussion about whether or not the appeal was approved for a separate stand-alone building without a residence or to be built prior to a primary structure. It was clarified the appeal did allow and approve a stand-alone building without a residence on the property. Mr. Miller stated he would have a concern about the lack of a driveway if this was going to be highly used, but this is just for storage use.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a Use Variance to allow for a cleaning business be approved based on the findings and conclusions of the Board:

1. The request will not be injurious to the public health, safety, morals, and general welfare of the community. The existing building will continue to be used for storage.

2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner. The proposed use is low impact.
3. A need for the Use Variance does arise from a condition that is peculiar to the property involved. The existing building was allowed by a 1988 appeal.
4. Strict enforcement of the terms of the Zoning Ordinance would constitute an unnecessary hardship if applied to the subject property.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan. The Comprehensive Plan encourages reuse and redevelopment of existing structures and properties.

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 commitment was imposed:

1. The request is approved in accordance with the site plan submitted (11/01/2022) and as represented in the Use Variance application.

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

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

15. The application of **John T. Ward** for a 4 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 1 ft. from the south side property line on property located on the Southwest side of Amber Valley Dr., 250 ft. East of Charlie Dr., common address of 57601 Amber Valley Dr. 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 #DV-0842-2022*.

There were eight neighboring property owners notified of this request.

Terry Lang, Lang, Feeney-Wightman Team, 715 S. Michigan St., South Bend, was present representing the petitioner. He stated his office originally prepared the site plans for this property, and the petitioner had contacted his office about field staking the location of property lines. He went on to say that they had a back log that wouldn't fit into the petitioner's time line, therefore the petitioner decided to place the building himself. He continued to say it came to light after the building was set that it was too close to the property lines. He stressed this problem was self-created due to the petitioner not waiting a couple of weeks to have the property lines set. Mr. Hesser asked when the building was built. Mrs. Gilbert responded the permit was issued in 2022. Mr. Hesser clarified the permit was given with the understanding that they were going to follow the required setbacks.

Mr. Auvil read and submitted an email from a remonstrator. *[Placed in file as Remonstrator Exhibits #1]*

The public hearing was closed at this time.

Mrs. Cramer stated that the permit shows they were going to place the building 10 feet from the property line. Mr. Hesser stated he doesn't see any justification for this at all, and the neighbors shouldn't have to accept this being so close. Mr. Warner stated there is history of issues with the petitioner. Mr. Norman stressed the neighbors had to pay for their property to get re-surveyed, because of the survey stakes being pulled out during the construction process.

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

Motion: Action: Deny, **Moved by** Randy Hesser, **Seconded by** Steve Warner that the Board adopt the Staff Analysis (as amended) as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a 4 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 1 ft. from the south side property line be denied with addition to adding finding #4:

1. Approval of the request will be injurious to public health, safety, morals, or general welfare. Setbacks are established to preserve public safety.
2. Approval of the request will cause substantial adverse effect on neighboring property. Structures on adjacent properties meet the setbacks.
3. Strict application of the terms of the Zoning Ordinance would not result in an unnecessary hardship in the use of the property. There is no reason why the building cannot be placed at the 5 ft. setback.
4. The need for this Developmental Variance is self-created.

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

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

16. The meeting was adjourned at 10:44 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary