

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 20th DAY OF OCTOBER 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.

Absent: David Miller.

2. A motion was made and seconded (*Norman/Warner*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 15th day of September 2022 be approved as read. The motion was carried with a unanimous roll call vote. Mr. Hesser noted that Attorney Don Shuler's name was misspelled in the minutes.

3. A motion was made and seconded (*Warner/Miller*) 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 *Anthony Warman & Jessica Warman, 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 and for a Special Use for a roadside stand on property located on the Northwest corner of CR 19 & US 20, common address of 56943 CR 19 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-0719-2022*.

There were 11 neighboring property owners notified of this request.

The petitioner was not present; hearing continued to the end of the meeting.

See item #9 on page 6.

There were no remonstrators present.

5. The application of *Bethany Church of the Brethren of the Northern Indiana District, Inc.* for an Amendment to an existing Special Use for a church to allow for an electronic message board on property located on the North side of US 6, 1,440 ft. West of CR 123, common address of 19003 US 6 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-0669-2022*.

There were five neighboring property owners notified of this request.

Stephanie Lehman, Signtech Sign Services, P.O. Box 835, Goshen, was present representing the petitioner. She explained the petitioner is going to remove the existing sign, which is in the parking lot. She went on to say that they will hire an electrician to run new electrical wires to the new electronic message board location. She stressed the electronic message board will

automatically dim from dusk until dawn to make it safer for drivers traveling along the road. Mr. Hesser stated he assumes they want to put the sign in the proposed location so the petitioner doesn't have to run wires under the parking lot. Mrs. Lehman stated that is correct; the current sign sits right in the middle of the parking lot. She added the new electric will run on the west side of the property. Mr. Warner asked if the proposed sign will have the same setbacks as the existing sign. Mrs. Lehman responded the new sign will meet the required setbacks. She stressed the setback will be 55 ft. from the centerline of the right-of-way. Mr. Warner explained his concern is that when signs are on at night, they are still too bright. However, he continued, as long as the signs are setback far enough, it doesn't cause as much of a concern. Mrs. Lehman reiterated that the sign will dim at night as a State regulation. She went on to say that the closest residence is 485 ft., therefore they won't be bothered by the new sign.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **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 church to allow for an electronic message board 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 sign at least 15 ft. away from the south property line.

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.

6. The application of *Cloverleaf School* for an Amendment to an existing Special Use for a school to allow for an addition and a reduction in property size located on the South side of CR 34, 1,770 ft. East of CR 33, common address of 14630 CR 34 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-0724-2022*.

There were eight neighboring property owners notified of this request.

Jeremiah Hochstetler, Freedom Builders, 54024 CR 33, Middlebury, was present representing the petitioners. He explained the petitioner would like to add 1,280 sq. ft. to bring the school up to the same size as most schools that are built today. He went on to say they have 38 students at this time and will go up to 45 students, with the new addition. He continued to say that there is no intent to build on the one acre piece of land that was split off to the neighbor to the south, and it is to be used for agricultural purposes. Mr. Hesser asked when the parcel was sold. Mr. Dean responded it was split in 2008.

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** 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 school to allow for an addition and a reduction in property size be approved with the following condition imposed:

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

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 9/12/2022) 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 **Danny R. Lehman & Vonda Lehman, Husband & Wife** for a Special Use for a home workshop/business for a campground shower manufacturing business and for a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) on property located on the Northwest corner of E. County Line Rd. (CR 45) & CR 40, common address of 65951 E. County Line Rd. 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-0718-2022*.

There were 10 neighboring property owners notified of this request.

Danny Lehman, 65951 E. County Line Rd., Millersburg, was present for this petition. He explained this is an established business that is moving from Idaho to Elkhart County. He went on to say they have been in business for 2 years, and they make shower and bathroom houses for campgrounds. Mr. Hesser asked if they will be able to store everything within the buildings, including the finished products. Mr. Lehman responded they have room for everything to be inside except the finished products. Mr. Hesser asked where the finished products will be stored and how long they will be outside. Mr. Lehman responded they haven't had more than 4 finished units outside, and the turnover is about 2 weeks before they are picked up. Mr. Norman asked if these are mobile units that can be towed. Mr. Lehman responded no, they have fork pockets in them to be moved until set on a level place. Mr. Norman asked if they are loaded on flatbeds. Mr. Lehman responded yes. Mr. Warner asked if there is room for a semi to pull on and off of the property without having to back on or off of the road. Mr. Lehman responded there are two entrances, and a circle drive that is used currently. Mrs. Cramer asked the size of the units. Mr. Lehman responded they are 8 ft. by 18 ft. Mr. Hesser asked if Staff has any concern with outside storage. Mr. Auvil responded not at this time. Mr. Hesser asked if Staff would like to see a revised site plan showing the semi turn-around. Mr. Auvil responded no.

There were no remonstrators present.
The public hearing was closed at this time.

Mrs. Cramer asked when this becomes a manufacturing business and is no longer a home workshop business. Mr. Hesser responded it depends on if they come back to expand the business and if it has gotten too big to be considered a home workshop. Mr. Miller stressed there is a picture of the drive, and there is plenty of room for a semi to turn around on the subject property. Mr. Godlewski asked if the Board wanted to modify commitment #2, because they are allowing the finished units to sit outside. Mr. Hesser responded that it has been represented today as to what the petitioner will be doing, and asked if Staff is satisfied with this. Mr. Auvil responded yes. Mr. Hesser stated it will be left as stated and represented. Mr. Auvil stated the Staff interpretation of this is the units will only be built to order and will not be stock piled on site. Mr. Auvil asked Mr. Lehman if that is correct. Mr. Lehman responded they will only build to order. Mr. Auvil stressed the concern would be stockpiling of units waiting to be bought, and that isn't the case here. Mr. Hesser asked if they will only have a maximum of 4 finished units outside waiting to be shipped at a time. Mr. Lehman responded he can't say that for sure, but they have not had more than 4 outside at this time. He went on to say the units are built to order and get shipped pretty quickly. Mrs. Cramer asked if in the future they will build units that aren't already sold. Mr. Lehman responded absolutely not, as they are too expensive to make just to have them sitting around outside to be damaged. Mr. Hesser asked if Staff or anyone on the Board wanted to put a limit to the amount of units that can be allowed outside. Mr. Auvil responded no. Mr. Miller stated there is a lot of property and even if they were to stack these units up outside no one would notice. Mr. Lehman reiterated he doesn't want any more outside than what have been ordered.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Steve Warner 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 campground shower manufacturing business be approved with the following condition imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 9/12/2022), as represented by the petitioner in the Special Use application, and at the public hearing on October 20, 2022.
2. No outside storage is allowed.

Further, the motion included that for a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) be approved with the following conditions imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 9/12/2022) 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.

8. The application of *Dwayne J. Martin & Elizabeth A. Martin, Husband & Wife* for a Use Variance to allow for a ground-mounted solar array greater than 3,000 sq. ft. in panel area on property located on the Northeast corner of CR 11 & CR 48, common address of 69906 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 #UV-0722-2022*.

There were 12 neighboring property owners notified of this request.

Dwayne Martin, 69906 CR 11, Nappanee, was present for this petition. He stated he has a dairy farm on this site, and he wants to off-set some of his energy use. He explained he is a part of Farmers Ensuring Responsible Management Program, and part of that program is that they want to know how he is reducing his energy usage or using Green Energy for the farm. He went on to say the solar panels will be ground-mounted and will be installed by Solar Energy Systems. It was clarified on the site plan where the solar panels were going to be located. He explained he will have roughly 788 planes that will be in 2 rows, stacked 2 high, and placed behind his barns, therefore not visible from CR 11. Mr. Hesser stated there is 650 ft. to CR 48 from the proposed solar panel location. Mr. Martin stated a tree line on the south side of this property will have to be either taken down or trimmed, because they will block a lot of the sun for the solar panels. He went on to say his plan is to get the panels off of the ground high enough, so that his cattle can graze underneath of them. However, he noted if that isn't possible then the panels will be high enough to allow sheep to graze the area.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Norman asked if Mr. Martin on a well and septic system. Mr. Martin responded yes just one well. Mr. Norman asked the size of the well. Mr. Martin responded it is a 4 inch well. Mr. Norman stated he is just concerned about fire suppression, if there was a fire due to the solar panels. Mr. Miller stressed there is a barn full of hay that is more combustibile than the panels. Mr. Norman stressed solar fires have been a concern from the public forums for the safety of the firefighters. Mr. Warner stated that everything thus far has shown that the chance of a fire is very minimal. Mr. Martin stated there is drive that goes to the pond to the north of the subject property and there's an irrigation system fire trucks can pump water out of if needed.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Steve Warner 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 Use Variance to allow for a ground-mounted solar array greater than 3,000 sq. ft. in panel area 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 (dated 9/12/2022) 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.

9. The application of *Anthony Warman & Jessica Warman, 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 and for a Special Use for a roadside stand on property located on the Northwest corner of CR 19 & US 20, common address of 56943 CR 19 in Jefferson Township, zoned A-1, came on to be heard.

There was no petitioner present at this time.

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

Motion: Action: Table, **Moved by** Randy Hesser, **Seconded by** Ron Norman 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 and for a Special Use for a roadside stand be tabled until the November 17, 2022, Advisory Board of Zoning Appeals meeting due to the absence of the petitioner. If the petitioner fails to appear for the November 17, 2022 meeting, the Board will act on the petitioner in their absence.

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

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

10. The meeting was adjourned at 9:39 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary