

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 18<sup>th</sup> DAY OF MAY 2023 AT 9:00 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: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Adam Coleson, Planner; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

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

**Absent:** Steve Warner.

2. A motion was made and seconded (*Norman/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 20<sup>th</sup> day of April 2023 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Roger 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 **Brookside Remodeling LLC** 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 South side of CR 40, 1,700 ft. West of SR 13, common address of 12306 CR 40 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-0242-2023*.

There were eight neighboring property owners notified of this request.

John Bontrager, 11500 CR 42, Millersburg, was present for this request. He stated he is looking to sell this property. He expressed he feels that this property will sell better if the Special Use is in place, due to the Amish families that are interested in buying it. Mr. Hesser asked what the property is used for right now. Mr. Bontrager responded it is just residential, and there is no barn or shelter for animals right now. Mr. Hesser asked if there was a homework/shop on the property. Mr. Bontrager responded no there isn't, and he just bought this property to fix it up and sell it. Mr. Roger Miller asked Staff, if there was a concern about the petitioner not living on the property in the future. Mr. Auvil responded no, there is no concern. Mr. Hesser explained a new site plan will be needed showing where the horses and barn will be located. Mr. Bontrager responded he understands the new owners will have to take care of that before putting horses on the property.

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 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 revised site plan must be submitted for staff approval showing shelter dimensions and setbacks.

The following commitments were imposed:

1. The request is approved in accordance with the site plan to be submitted for staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of two (2) adult horses, at any one time.

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

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

5. The application of *AMMF Trustee Corporation (Land Contract Holder) & Titus Mast (Land Contract Purchaser)* 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 East side of CR 1, 435 ft. North of CR 146, common address of 69528 CR 1 in Locke 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-0167-2023*.

There were 10 neighboring property owners notified of this request.

Charlie Zercher, Kindig & Sloat, 102 Heritage Parkway, Nappanee, was present representing the petitioner. He stated Mr. Mast would like to build a barn for the storage of hay and housing of the horses. He went on to say Mr. Mast has 2 driving horses, and they are agreeable to the Staff Report of having only 2 horses. He showed on the aerial where the pasture area would be located. Mrs. Cramer clarified the Special Use is for the horses. There was discussion about the petitioner needing a variance for the barn, and it was concluded that no variance was needed at this time.

Benjamin Rethlake, 308 Teri St., South Bend, was present in remonstrance. He stated he owns the vacant lot to the east of the subject property. He stressed his property lines were clearly marked and the petitioner put the horse fence a foot into his property. He went on to say there have already been 3 horses on the property. He added the septic leach bed is being damaged, because of the horses stomping the grass down. He stressed horses shouldn't be put on less than an acre of land.

Mr. Zercher came back on to respond. He stated in regards to the horse fence, he is unaware of the issue, though he feels Mr. Mast would have resolved that, if it was an issue. He stressed field tile and the septic leach bed will not be damaged by horses being on the property. He continued to say the prior owner had horses on this property. Mr. Hesser stated the remonstrator is concerned the barn will be on his property. He asked if the new barn will be placed within the correct setbacks. Mr. Zercher responded the new barn will be placed 100 ft. from the east property

line, and the current lean-too, that sits closer to the property line, is to be removed. Mr. Hesser stated the number of horses will be limited to what is approved, and he feels a revised site plan should be a condition. Mrs. Cramer clarified the Staff Report already states they need a revised site plan.

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** 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 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 revised site plan must be submitted for staff approval showing the fenced pasture area.

The following commitments were 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 application.
2. The agricultural use is limited to a maximum of two (2) adult horses, at any one time.

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

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

6. The application of **Krystal James** 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 East side of Marvin St., 250 ft. North of CR 4, common address of 51966 Marvin St. 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-0193-2023*.

There were 19 neighboring property owners notified of this request.

Krystal Roberts, also known as Krystal James, 51966, Elkhart, was present. Mrs. Cramer asked if the request is for horses as well as chickens. Mrs. Roberts responded no, they aren't interested in horses. She went on to say they want the chickens for a hobby, for her son to grow up learning how to take care of them, and for a food source. Mrs. Cramer asked how many chickens she wants to have. Mrs. Roberts responded they want no more than 10 chickens. Mrs. Cramer asked how they will be kept on the property. Mrs. Roberts responded she has a 6 ft. tall privacy fence, and a chicken coop that is attached to a 10 ft. by 10 ft. fenced in area with a roof to keep the chickens enclosed. Mr. Hesser asked what they will do with the waste. Mrs. Roberts responded she plans on composting a small amount for the flower beds, and the bedding will be burned.

Marvin Long, 51902 Marvin St., Elkhart, was present in remonstrance. He stated he is opposed to the chickens, due to there have never been any agricultural animals in the area. He stressed chickens have a smell and are dirty. He went on to say Mr. Roberts has cats that are allowed to run free in the neighborhood.

Larry Gard, 24797 CR 4, Elkhart, was present in remonstrance. He stated he is neither for nor against the request at this point. He asked if this request is approved and odor becomes an

issue, can it be rescinded. He stated he doesn't know what free-ranged versus caged means and wants to know the difference between them.

Krystal Roberts came back on to respond. She stated as far as the smell, she plans on doing bi-weekly coop cleaning in order to keep the odor down, because they don't want to smell the chickens either. She went on to say the cats in the area aren't hers, and they are a neighbor's from down the road on CR 4. She stressed she will be clipping the wings of the chickens. Mr. Noman explained the difference between caged and free-ranged. He stated free-ranged are in a coop with a fenced in area versus caged are fed without being able to get food from the ground.

Philip Gross, 24804 Eva Ave., was present in remonstrance. He stated his sister had chickens before, and they bring mice and rats. He stressed he doesn't want that in his neighborhood.

The public hearing was closed at this time.

Mr. Miller stated this is a standard request. Mr. Hesser stated the petitioner did make representation about how she will deal with waste and smell that are now a part of the conditions.

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 an agricultural use for the keeping of animals on a tract of land containing less than 3 acres to 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 3/31/2023) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of (12) chickens, at any one time, and no roosters.

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

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

7. The application of *AMMF Trustee Corporation (Land Contract Holder) & Merle D. Miller & Dorida Miller, Husband & Wife (Land Contract Purchaser)* for an Amendment to an existing Special Use for a home workshop/business for the construction and sales of cabinets and trim to allow for an addition to the existing shop, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) on property located on the Southwest corner of CR 50 & CR 7, common address of 27012 CR 50 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-0244-2023*.

There were 15 neighboring property owners notified of this request.

Ronnie Justice, Advanced Land Surveying, 17120 CR 46, New Paris, was present representing the petitioners. He stated they want to build a 50 ft. by 80 ft. cold storage building.

He went on to say the extra employee is only part time averaging 12 hours a week. Mr. Hesser clarified the 2 part time employees are being considered in the total number of employees, therefore they will have 3 employees. Mrs. Cramer asked if they can get trucks on and off the property. Mr. Justice responded yes, and they have combined the two 20-acre parcels to make it 40 acres now. Mr. Roger Miller asked if there will be semi-truck deliveries. Mr. Justice responded no, they will have long trailers and trucks. Mr. Roger Miller asked if there is room for the trucks to turn around on the property. Mr. Justice responded yes, they can turn around on the circle driveway.

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** 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 home workshop/business for the construction and sales of cabinets and trim to allow for an addition to the existing shop 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. Either a minor subdivision or a recombination with the adjacent west 20 acres on the same deed is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 4/17/2023) and as represented in the Special Use Amendment application.

Further, the motion also included for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) to be approved with the following conditions 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 (dated 4/17/2023) and as represented in the Developmental Variance application.

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

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

8. The application of *Lamar Jay Miller & Fannie I. Miller, Husband & Wife* for a Special Use for a home workshop/business for a bakery and for a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) on property located on the East side of CR 31, 1,350 ft. North of CR 22, common address of 59024 CR 31 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-0192-2023*.

There were 13 neighboring property owners notified of this request.

David Myers, 2809 Ferndale Rd., was present representing the petitioner. He stated the petitioner is in agreement with the Staff Report. Mr. Hesser asked where the solar arrays will be located. Mr. Myers responded he doesn't know where the solar panels will be located. Mr. Hesser stated he doesn't see a variance, therefore they must be on the roof. Mr. Auvil explained if the solar panels are on the roof they are allowed by right.

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 home workshop/business for a bakery 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. All applicable building permits for the bakery will be required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 3/31/2023) and as represented in the Special Use application.

Further, the motion also 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 3/31/2023) and as represented in the Developmental Variance application.

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

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

9. The application of *Mennonite Mutual Land Trustee Corporation (Land Contract Holder), Truman Beachy & Irene Beachy, Husband & Wife (Land Contract Purchaser/Sellers), & Gary Martin (Land Contract Purchaser/Buyer)* for a Special Use for a home workshop/business for a heating and cooling business and for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2) on property located on the South side of CR 138, 765 ft. West of CR 21, common address of 20136 CR 138 in Elkhart 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-0225-2023*.

There were nine neighboring property owners notified of this request.

Gary Martin, 67483 SR 19 Wakarusa, was present for this petition. He stated he would like to have his heating and cooling business on his property. Mr. Hesser asked if he is operating from a different location now. Mr. Martin responded yes. Mr. Hesser asked if they will do any work on site. Mr. Martin responded they will meet on site in the mornings, load the trucks, and head to the job sites. He added the employees will then go home from the job sites. Mrs. Cramer asked if there will be any large trucks coming to the property. Mr. Martin responded he will have larger box truck deliveries, but no semis. Mr. Hesser clarified the Board is concerned with the trucks turning around on the property and not backing off the roadway. Mr. Martin stressed there is room for trucks to turn around on the property.

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 home workshop/business for a heating and cooling 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.
2. A revised site plan must be submitted for staff approval showing the sign out of the right-of-way.

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 application.

Further, the motion also included that for a Developmental Variance to allow for 4 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 revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

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

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

10. The application of *Anthony Yoder & Linny S. Yoder, Husband & Wife* for 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 that allowed by right on property located on the South side of CR 30, 455 ft. East of CR 13, common address of 23912 CR 30 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-0180-2023*.

There were nine neighboring property owners notified of this request.

Anthony Yoder, 23912 CR 30, was present for this request. He stated he wants to build a storage barn for the business with a small office included. He stressed there won't be any full time employees on the property. He continued to say the employees drive to the job site and not to the subject property. Mr. Hesser stated the new building looks to be half way back on his parcel. Mrs. Cramer asked if the construction materials are delivered to the job sites. Mr. Yoder responded yes, or they will pick them up at the store. Mr. Norman asked if there was any equipment or trucks stored on the property. Mr. Yoder responded he has a dump trailer that he uses for his trash and a flatbed trailer that will be in the barn. Mr. Norman asked if there are any machines. Mr. Yoder responded no, not at this point.

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 construction 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 (dated 3/29/2023) and as represented in the Special Use application.

Further, the motion also included that for 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. 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 (dated 3/29/2023) and as represented in the Developmental Variance application.

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

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



11. The application of ***Justin S. Hurtekant & Chantelle Y. Hurtekant, Husband & Wife*** for a Special Use for a home workshop/ business for a construction business and for a Developmental Variance to allow for 4 outside employees (Ordinance allows 2) on property located on the North side of CR 24, 395 ft. East of CR 1, common address of 29963 CR 24 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 #SUP-0204-2023*.

There were 17 neighboring property owners notified of this request.

Justin Hurtekant, 29867 CR 24, Elkhart, was present for this petition. He stated he currently owns a construction company, and he moved on site about a year and a half ago. He continued to say his employees come to the property, load up work trucks, and drive to the job sites. He stressed there will not be any work done on site, and no full time employees on site during the day. Mr. Hesser asked if the proposed buildings on the site plan are built or still proposed to be built. Mr. Hurtekant responded they are being built now as well as the house.

Tania Forgey, 29839 CR 24, Elkhart, was present in remonstrance. She stated she has a beauty shop in her garage, and before she was allowed to start her business she had to come before the Board. She stressed that the petitioner has been running this business for 6 months. Further, she stated Mr. Hurtekant is using their driveway. She stressed he isn't going to be allowed to continue using their driveway, since he put the big building up. She asked if anyone was allowed to live in the barn that was built. Mr. Auvil responded no. Mr. Hesser stated there is no legal operation of the business until it gets approved. Mr. Auvil explained they were allowed to build a building by right. Mrs. Forgey stressed they will need their own driveway.

Justin Hurtekant came back on to respond. He stated the driveway issue has been addressed, and he granted an easement to the two-story residence on the property when he split the property. Mr. Hesser stated there is nothing on the site plan showing the access to the building. He continued to say he is requesting a revised site plan be submitted showing the driveway, or access to the new building. Mrs. Cramer asked if they only own 18 inches to 2 ft. of the driveway that is shared, then where and when will the new driveway be put in. Mr. Hurtekant responded they will be putting in the new driveway when the new septic gets put in. Mr. David Miller asked where the new driveway was going to be located. Mr. Hurtekant submitted a site plan showing the septic and driveway [Attached to file as *Petitioner Exhibit #1 & #2*]. Mr. Hesser asked if the shaded area on the aerial was the correct boundary. Mr. Hurtekant responded yes, it is correct. There was discussion about who owns which part of the driveways on the different parcels owned by Mr. Hurtekant and Mrs. Forgey. Mr. David Miller asked how he accesses the barn on the other side of the ditch. Mr. Hurtekant responded that is a log cabin. Mr. Hesser explained that if this is the parcel being used for the business than anything in connection with the business should have access directly to the road and not a neighboring property. Mrs. Cramer asked if he lives in the house with the pool. Mr. Hurtekant responded correct. Mrs. Cramer stated then technically he doesn't live on the property with the business. There was clarification that Mr. Hurtekant is building a new home on the property where the business will be located, therefore he will be living on the property. The Board had discussion about a driveway being put in that won't cross neighbor's property lines. Mr. Hurtekant explained the driveway will run along the new property line in an S shape. Attorney Kolbus clarified the driveway will be on the subject property, though a new site plan would be

needed. Mr. Hesser asked how wide the new driveway will be. Mr. Hurtekant responded it will be 16 ft. wide.

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 home workshop/ business for a construction 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 (dated 5/18/2023) 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) 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 5/18/2023) and as represented in the Developmental Variance application.

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

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

12. The application of *State of Indiana* for a Use Variance to allow for ground-mounted solar arrays on property located on the East side of CR 17, 2,355 ft. North of CR 104, common address of 52422 CR 17 in Washington Township, zoned GPUD E-3, came on to be heard.

There were 14 neighboring property owners notified of this request.

The application of *State of Indiana* for a Use Variance to allow for ground-mounted solar arrays on property located on the West side of SR 13, 1,570 ft. South of CR 2, common address of 00000 SR 13 in York Township, zoned A-1, B-2, came on to be heard.

There were 17 neighboring property owners notified of this request.

The application of *Indiana Toll Road Concession* for a Use Variance to allow for ground-mounted solar arrays on property located on the East side of Ash Rd., 1,275 ft. South of CR 10, common address of 52452 Ash Rd. in Cleveland Township, zoned A-1, came on to be heard.

There were 14 neighboring property owners notified of this request.

Mr. Hesser explained the Board is going to go out of order, as to not have people waiting in the audience for petitions that are going to be withdrawn. He went on to explain that these

petitions are on State of Indiana land, and it is out of the Board's jurisdiction. Mr. Auvil submitted an email from the petitioner asking for them to be withdrawn [Attached to file as Staff Exhibit #1].

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:** Withdraw, **Moved by** Randy Hesser, **Seconded by** Ron Norman that these requests for Use Variances to allow for ground-mounted solar arrays for the State of Indiana be withdrawn at the request of the petitioner.

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

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

13. 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 and for a 39 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing commercial building 11 ft. from the east side property line 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 #DV-0165-2023*.

There were three neighboring property owners notified of this request.

James Goldsborough, 30290 CR 12, Elkhart, was present for this petition. Mr. Hesser stated the Special Use was conditionally approved as long as he submitted a minor subdivision, and now the Developmental Variance is needed for that minor subdivision. He asked if the buildings on the site plan were new buildings. Mr. Goldsborough responded no, they are current buildings. Mr. Hesser clarified the site plan is the same as the one that was submitted in December. Mrs. Cramer asked why there is a need for the Developmental Variance. Mr. Hesser responded it is his understanding that this is the subdivision boundaries that the Plat Committee thought was the most appropriate layout of the property.

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 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 building permit is required for the building that is the subject of the Amendment and Variance if none has already been issued.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 3/24/2023) and as represented in the Special Use Amendment application.

Further, the motion also included that for a 39 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing commercial building 11 ft. from the east side property line 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 3/24/2023) and as represented in the Developmental Variance application.
3. A building permit is required for the building that is the subject of the Amendment and Variance if none has already been issued.

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

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

14. The application of *State of Indiana* for a Use Variance to allow for ground-mounted solar arrays on property located on the East side of CR 17, 2,355 ft. North of CR 104, common address of 52422 CR 17 in Washington Township, zoned GPUD E-3, came on to be heard.

Previously heard, see item #12 on page 10.

15. The application of *State of Indiana* for a Use Variance to allow for ground-mounted solar arrays on property located on the West side of SR 13, 1,570 ft. South of CR 2, common address of 00000 SR 13 in York Township, zoned A-1, B-2, came on to be heard.

Previously heard, see item #12 on page 10.

16. The application of *Indiana Toll Road Concession* for a Use Variance to allow for ground-mounted solar arrays on property located on the East side of Ash Rd., 1,275 ft. South of CR 10, common address of 52452 Ash Rd. in Cleveland Township, zoned A-1, came on to be heard.

Previously heard, see item #12 on page 10.

17. The application of *Juan C. Echevarria* for a Special Use for a home workshop/business for a food truck commissary on property located on the Southwest corner of Janiper Dr. & CR 15, common address of 23020 Janiper Dr. in Concord 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-0076-2023*.

There were 16 neighboring property owners notified of this request.

Juan Echevarria, 23020 Janiper Dr., Elkhart, was present for this petition. He stated he wants to use his kitchen to cook his food for his food truck. Mr. Hesser asked what he plans to do in the building. Mr. Echevarria responded it is for storage of the equipment he needs for his food truck. Mr. Hesser asked if he is expanding the kitchen or keeping it the same size. Mr. Echevarria responded the same size kitchen, and he is not building anything new. Mr. Hesser clarified he is just doing food preparation inside of his current kitchen. Mr. Roger Miller asked if this was for

one truck. Mr. Echevarria responded yes. Mr. Hesser asked the number of employees. Mr. Echevarria responded just his sons and himself. Mr. Hesser stated there were concerns about traffic, at the last meeting. Mr. Echevarria responded there aren't any deliveries; it is just his one truck and his regular cars. Mr. Hesser asked how many times they will come and go off the property with the food truck. Mr. Echevarria responded they will leave in the morning and come back to the house in the evenings. Mr. Roger Miller asked if the 4 part time employees on his application were his family members. Mr. Echevarria responded yes. Mr. Hesser asked why he wasn't here last month. Mr. Echevarria responded there was confusion between him and his son on who was supposed to come to the meeting.

Jerry Hay, 60329 CR 15, Elkhart, was present in remonstrance. He asked if any retail sales will occur at this location, because if that does occur it will cause traffic hazards. He stressed this is a blind corner and causes accidents. Mr. Hesser explained that everything stated today will be on the record, and Mr. Echevarria will be held to those statements. Mr. Roger Miller stated the kitchen is only 8 ft. by 11 ft., therefore it isn't big enough to have a restaurant.

Michael Robinson, 60243 CR 15, Elkhart, was present in remonstrance. He stated his one question about employees was answered. He asked are the supplies getting delivered on site or will they be going to get their supplies themselves.

Juan Echevarria came back on to respond. He stated he is not doing any sales on site. Mr. Hesser asked how he gets supplies on site. Mr. Echevarria responded he goes to get his supplies. Mr. Roger Miller explained if he states he won't have deliveries coming to his property, then he will be held to that statement. Mr. Echevarria responded he can go get his food and supplies, because this isn't a store or a big business. Mr. Hesser explained there is a lot of concern that he will have semis and other trucks delivering at his house. He stressed he will not have truck deliveries at his home. Mrs. Cramer asked if he has any outside employees. Mr. Echevarria responded no.

The public hearing was closed at this time.

Mr. Roger Miller stated the kitchen is small, therefore he can't be making too much food. Mrs. Cramer clarified the kitchen is 18 ft. by 11 ft.

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 a Special Use for a home workshop/business for a food truck commissary 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 2/14/2023) and as represented in the Special Use application.

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

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

17. The application of *Edgar Rodriguez* 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 CR 9, West end of CR 22, common address of 58975 CR 9 in Concord 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-0090-2023*.

There were eight neighboring property owners notified of this request.

Edgar Rodriguez, 58975 CR 9, Elkhart, was present for this petition. He stated he has chickens, but he hasn't gotten the permit for the fence yet. He went on to say the chicken coop will be 10 ft. by 8 ft., though if this gets approved he will put up another coop that is 10 ft. by 20 ft. Mrs. Cramer asked the number of chickens. Mr. Rodriguez responded he has 19 chickens. Mr. Hesser asked if he would be okay with going down to 12 chickens. Mr. Rodriguez responded yes, that is fine. Mrs. Cramer asked if he has any roosters. Mr. Rodriguez responded no. Mr. Hesser asked what he will be doing with the waste. Mr. Rodriguez responded he has his own company that he can take the waste to and get it dumped out.

Barbara Wykoff, 59046 CR 9, Elkhart, was present in support of this petition. She stated they are in favor of the request, and they haven't noticed any problems.

Nick Grimm, 59041 CR 9, Elkhart, was present in support. He stated he has no issues with them having chickens.

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 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 (dated 2/23/2023) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens, at any one time, and no roosters.

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

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

18. As a Staff Item Mrs. Kratzer present the Board with the option to keep packets as paper copies or receive them through email copies only.

Mae Kratzer asked any of the Board members if they wanted paper copies or just emailed copies of the packets. Mrs. Cramer stated she wants to stay paper. Mr. Hesser stated he wants paper copies. Ron Norman stated he will just do emailed packets. Mr. Roger Miller stated he will do email packets still, as he is doing already.

19. The meeting was adjourned at 10:41 A.M.

Respectfully submitted,

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Danielle Richards, Recording Secretary

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Randy Hesser, Chairman

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Ron Norman, Secretary