

**BZA MINUTES**  
**ELKHART COUNTY BOARD OF ZONING APPEALS MEETING**  
**HELD ON THE 21<sup>st</sup> DAY OF SEPTEMBER 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, Steve Warner, Randy Hesser, Ron Norman.

**Absent:** Roger Miller, 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 17<sup>th</sup> day of August 2023 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Warner/Cramer*) 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 *Viviana Hernandez* for a Special Use for a home workshop/business for a catering service on property located on the East side of Crestview Dr., 1,535 ft. Southeast of SR 1, common address of 58970 Crestview 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-0555-2023*.

There were 18 neighboring property owners notified of this request.

The petitioner was not present; hearing continued to the end of the 9:00 a.m. time slot.

See item # 8 on page 4.

5. The application of *Elevation Home Builders LLC* for a Special Use for an agricultural use for the keeping of animals on property located on the East side of Dolph Rd., 690 ft. South of State Line Rd., common address of 50678 Dolph Rd. 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-0515-2023*.

There were 19 neighboring property owners notified of this request.

Aaron Gilliland, 52880 CR 15, Elkhart, was present representing the petitioners. He stated they want a couple of horses on the property, which is almost 5 acres, and surrounded by agricultural use. Mr. Hesser asked if the horses will be there full-time. Mr. Gilliland responded just part-time, when the horses are in training they will go to a training facility, and they are shown all over the country. Mr. Hesser asked what kind of show horses are they. Mr. Gilliland responded they are quarter horses. Mrs. Cramer asked if they will come to the property every day. Mr. Gilliland responded they will be at the property every single day. Mr. Hesser stated it is their

residence. Mrs. Cramer asked Staff if the Special Use was needed due to the property being under 5 acres. Mr. Auvil responded the Special Use is needed since the property is in an R-zone.

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** 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 an agricultural use for the keeping of animals 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 7/31/2023) 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 = 4).

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

6. The application of *Roger Galloway & Karen Galloway, (Buyers) & Douglas G. Penner & Kristi J. Penner, Husband & Wife (Sellers)* for a Special Use for a home workshop/business for a well drilling company on property located on the North side of CR 38, 1,525 ft. East of CR 33, common address of 14695 CR 38 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-0528-2023*.

There were seven neighboring property owners notified of this request.

Roger Galloway, 14695 CR 38, was present for this petition. He stated this is for storage of his well-drilling rig, a tanker truck, and a mini backhoe. Mr. Warner asked what size wells does he install. Mr. Galloway responded he does 4-inch to 6-inch wells, and it is very seldom he will do an 8-inch well. Mr. Hesser asked if his employees will just go to the work site or will they park at the subject property first. Mr. Galloway responded they will be parking at his property. Mr. Hesser asked how many trucks he has. Mr. Galloway responded he has 1 drill rig, 1 water truck, and 1 service truck, and he plans on keeping all three in the building. He stressed he only has 3 employees. Mr. Hesser stated the questionnaire stated they will have 2 employees. Mrs. Cramer clarified the questionnaire states he will have 2 full-time employees and 2 part-time employees. She asked if they will be putting up a fence to cover the pipe that will be stacked outside. Mr. Galloway responded he is planning on installing a 6 ft. privacy fence as well as a pipe rack on the south side of the building. Mr. Hesser asked if the existing Special Use for the truck and auto repair business is something he will still be doing. Mr. Galloway explained that is for the current owner, and he will not be running that business. He stressed he will only repair his own trucks when needed. He went on to explain that finalizing the buying of the property is contingent on whether or not this petition gets approved.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser asked if the existing Special Use needs to be rescinded. Mr. Auvil responded when the real estate transaction happens, then the old Special Use will need to be rescinded. Mr. Hesser asked if that rescission would come to the Board as a Staff item. Attorney Kolbus explained generally the Board can rescind the Special Use as part of the motion or a request is filed as a Staff item that the Board will act upon at that hearing. Mr. Hesser explained there are a lot of contingencies and anything could happen to where this transaction might fall through and not happen. Mrs. Cramer asked if the motion could be contingent upon the sale of the property to the new owner. Mr. Hesser responded yes.

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 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 well drilling company 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 8/4/2023) and as represented in the Special Use application.

Further, the motion also included that a Special Use for a home workshop business for automotive and truck mechanical repair be rescinded once the real estate transaction has been completed and the completed commitment form for the current Special Use for a home workshop/business for well drilling has been turned into the Planning and Development Staff.

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

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

7. The application of ***River Oaks Community Church, Inc.*** for an Amendment to an existing Special Use for a place of worship to allow for a school on property located on the East side of CR 115, 300 ft. North of Jeri Ann Dr., common address of 58020 CR 115 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-0549-2023*.

There were 45 neighboring property owners notified of this request.

Drew Ritchie, Lead Pastor at River Oaks Church, 58020 CR 115, Goshen, was present for this petition. He stated they want to welcome a microschool in their program beginning this fall. He explained they have been approached by the families currently involved in the microschool program, and it aligns well with the mission of the church. He continued to say that the program would be able to utilize space that isn't being used and wouldn't affect or add to the traffic that is already happening for the church. Mr. Hesser asked if this will be entirely in existing buildings. Mr. Ritchie responded yes, they will not be building anything new, and using the playground that has already been approved. Mr. Norman asked what is a microschool.

Katie Nord, 59231 Nuthatch Ct., Goshen, was present for this petition. She explained they are a faith-based microschool, and they have 20 families with 25 children in the program. She continued to say it is an educational system where families get together to hire tutors, and it is similar to an outsourced homeschooling system.

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** 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 an Amendment to an existing Special Use for a place of worship to allow for a school 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 8/14/2023) and as represented in the Special Use Amendment application.

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

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

8. The application of *Viviana Hernandez* for a Special Use for a home workshop/business for a catering service on property located on the East side of Crestview Dr., 1,535 ft. Southeast of SR 1, common address of 58970 Crestview 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-0555-2023*.

There were 18 neighboring property owners notified of this request.

Viviana Hernandez, 58970 Crestview Dr., Elkhart, was present for this petition. She explained she wants to operate catering services to deliver food to factories. Mrs. Cramer asked if she will be using a food truck. Mrs. Hernandez responded she will start at her home and eventually get a food truck. Mrs. Cramer stated she listed a 4 a.m. start time on her application. She asked if people would be coming to her house at that time. Mrs. Hernandez responded no, it will only be for deliveries, and she will cook in the morning until noon. Mr. Norman asked how many delivery vehicles will be coming and going from the property. Mrs. Hernandez responded just one vehicle. Mrs. Cramer asked how food supplies will be delivered to the property. Mrs. Hernandez responded that she will be shopping for her supplies and food. Mrs. Cramer asked if she will be building a new building for this business. Mrs. Hernandez responded no, everything will be done inside her current 20 ft. by 40 ft. garage. Mr. Hesser asked if she understood what the Staff was asking for on the revised site plan. Mrs. Hernandez responded no. Mr. Auvil explained Staff needs a site plan showing the whole property, the size and labeling of buildings, and where they are located on the property. Mrs. Hernandez showed on the aerial where her buildings are located. Mrs. Cramer stressed Staff needs to see that on a revised site plan.

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** 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 catering service 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 buildings labeled and property lines.

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.

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

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

9. As a Staff Item, Mr. Auvil presented the request for a minor change to a Special Use for a ground-mounted solar array (SUP-0120-2023) to add an additional 26 ft. by 13 ft. set of solar panels. Mr. Hesser stated he doesn't remember this one. He asked if there were neighbors present in remonstrance. Mr. Auvil responded no there weren't any. He continued to say it was a pretty large system which triggered the need for a Special Use, and they want to add battery back-ups. He stressed the economics would work to add extra solar panels to their system.

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 approve the request as a minor change.

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

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

10. As a Staff Item, Mr. Auvil presented a request for rescission of a Special Use for a commercial greenhouse and roadside stand (SUP-0391-2022) at the request of the petitioner.

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

**Motion: Action:** Rescind, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the request be rescinded at the request of the petitioner.

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

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

11. The application of *Richard A. Zimmerman & Sheila M. Zimmerman, Husband & Wife* for an Amendment to an existing Special Use for an agribusiness to allow for a new building and a larger sign on property located on the Northeast corner of CR 38 & CR 35, common address of 13679 CR 38 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-0546-2023*.

There were 20 neighboring property owners notified of this request.

Richard Zimmerman, 13679 CR 38, Goshen, was present for this petition. He stated they want to put in another wash bay. Mr. Hesser asked what the business is that he does on-site. Mr. Zimmerman responded they do various different kinds of on-farm services. Mr. Norman asked if this wash bay is for manure spreaders. Mr. Zimmerman responded yes, for his equipment, and the bulk of the business is for liquid manure. Mr. Norman asked where the run-off will go when they are cleaning the equipment. Mr. Zimmerman responded he will build a sedimentation system, because the bulk of what is being washed off is mud and dirt and that has to be stopped from leaving the area. Mr. Hesser asked how big the dairy barn is. Mr. Zimmerman responded he wasn't sure, and there aren't any cows in there currently. Mr. Hesser asked if the wash bay was to scale on the drawing. Mr. Zimmerman explained the drawing was not to scale at all. Mr. Hesser asked if Staff needed a revised site plan to scale. Mr. Auvil responded Staff generally likes to see things proportional, but they don't necessarily need a revised site plan. Mr. Zimmerman stressed the building to the west is 50 ft. by 100 ft., and the new building will be behind the current building and will be close to the same size. Mr. Warner stated this won't be seen from the road. Mr. Auvil stressed as long as the site plan shows setbacks then the site plan will be approved.

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** Steve Warner, **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 an agribusiness to allow for a new building and a larger sign 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 8/10/2023) and as represented in the Special Use Amendment application.

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

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

12. The application of *Carol Hensley & Anthony Hensley, Wife & Husband* for a Special Use for a home workshop/business for a produce and flower stand, for a 42 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing pavilion 33 ft. from the centerline of the right-of-way of CR 20, for a 47 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing pavilion 73 ft. from the centerline of the right-of-way of SR 15, 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 Northeast corner of SR 15 & CR 20, common address of 58480 SR 15 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0552-2023*.

There were 15 neighboring property owners notified of this request.

Carol Hensley, 58480 SR 15, Goshen, was present for this petition. She explained they started out with a very small area selling produce, and they didn't know they needed a permit to have a roadside stand. She continued to say they have been doing this for almost 7 years now, and they put a pavilion on the property. She went on to say the pavilion does not extend past the corner of the house and will not impede the line-of-sight of traffic. She stressed she has a side driveway off of CR 20 where 3 to 4 people can park as well as a driveway off of SR 15 where 1 to 2 people can park. Mr. Warner stated that his concern is the high traffic that is in this area. Mrs. Hensley stressed they are outside when customers are there, and they will help them back out if there is a lot of traffic. She went on to say that most of their customers come after 5 p.m. and there isn't much traffic at that time of day. Mr. Norman asked which side of the house the pavilion sits on. Mrs. Hensley responded it is on the east side of the house. Mr. Hesser asked what the pavilion sits on. Mrs. Hensley responded it sits on the grass. There was clarification on the aerial of where the pavilion is located on the property. Mr. Warner asked how large of a property she has. Mrs. Hensley responded they have half of an acre, and the pavilion is 16 ft. by 10 ft. in size. Mr. Norman asked if the pavilion is portable. Mrs. Hensley responded it can be moved if needed for approval. She reiterated that CR 20 is less busy and has more parking, and that is why they put the pavilion on that side of the house. Mr. Hesser asked if the pavilion could be moved to the backyard. Mrs. Hensley responded it could, but they have two dogs that are fenced in that area. She continued saying they have access to come and go from the house through a dog door. Mr. Norman asked if there have been any accidents during the time they have been running this business. Mrs. Hensley responded there haven't been any accidents due to their business.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his concern is that there is a school and a fire department across each road from the subject property. He continued to say that the surrounding homeowners all have to back out of their driveways, and there is a flashing yellow light at this intersection. Mrs. Cramer stated that the Staff's main concerns are the traffic and the pavilion being in the right-of-way. Mr. Norman stated the pavilion would have to be moved back. Mr. Hesser reiterated it isn't a permanent structure therefore it could be moved. Mr. Auvil explained the pavilion can be placed at the property line, but it can't be in the right-of-way. Mr. Hesser asked how far back the right-of-way is. Mr. Auvil responded Staff doesn't really know an accurate measurement, though it is estimated that the pavilion is encroaching into the right-of-way. Mr. Warner asked how the Board can give the petitioner direction to move the pavilion out of the right-of-way. Mr. Auvil responded the best way to find out is for the petitioner to hire a surveyor to get accurate measurements. Mrs. Cramer asked if there was an estimation of how wide the right-of-way was. Mr. Auvil responded he would say 30 feet or more. Mr. Hesser stated it sounds like they are not allowing people to park on the road, and that was one of his biggest concerns. Mr. Norman stated the way these houses are located on CR 20 a lot of people are backing out onto the road daily. Mr. Auvil explained this isn't a home workshop/business, this is a roadside stand, and Staff requires a permit for the pavilion as it was installed without one. Mr. Norman asked Mrs. Hensley if this was a seasonal business not

being run year-round. Mrs. Hensley responded that next year they are just going to do flowers in the spring and mums in the fall, and not do any more produce.

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

**Motion: Action:** Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that this request for a Special Use for a home workshop/business for a produce and flower stand be approved based on the following Findings and Conclusions of the Board:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Zoning Ordinance.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property.
3. The Special Use will substantially serve the public convenience and welfare.

The following conditions were 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 placement of the pavilion
3. 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.

The following commitments were imposed:

1. Approved in accordance with the revised site plan to be submitted for staff approval showing the pavilion out of the right-of-way, the petitioner's testimony, and as represented in the Special Use application.
2. The pavilion cannot be placed within the right-of-way.
3. There is no on-street parking allowed.

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 revised site plan to be submitted for Staff approval and as represented in the Developmental Variance application.

Further, the motion also included that a 42 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing pavilion 33 ft. from the centerline of the right-of-way of CR 20 and for a 47 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing pavilion 73 ft. from the centerline of the right-of-way of SR 15 be denied.

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

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

13. The application of *Steven E. Stephens* for a Special Use for a home workshop/business for a tree stump removal 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 North side of CR 8, 665 ft. West of CR 21, common address of 19623 CR 8 in Washington 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-0495-2023*.

There were 12 neighboring property owners notified of this request.

Steve Stephens, 19623 CR 8, Bristol, was present for this petition. He explained he would like to keep his equipment on his property and run his business out of the backyard. Mr. Warner asked how much equipment he has. Mr. Stephens responded he has 3 dump trailers, a chipper, a stump grinder, a bucket truck, and pretty much everything that is needed to do tree work. Mr. Hesser asked if his employees park on the property. Mr. Stephens responded that is correct. Mr. Hesser clarified the new building isn't a part of the business. Mr. Stephens responded he isn't building anything new, and the Developmental Variance is for the current buildings. Mr. Hesser stated he doesn't understand item number two under the commitments; no business uses on property other than that petitioner's property. He continued to say that the work will be conducted off of the subject property at job sites. Mr. Auvil responded when looking at the aerial footage, there is a lot of debris and piles of stumps, and Staff is unclear as to whether or not his business is being conducted on a neighboring property as well as his own. Mrs. Cramer asked if he brings materials back to the property from a job site. Mr. Stephens responded yes, sometimes he will cut and split the wood that he will give to people who need it because they can't afford their gas bills. He went on to say his neighbor allows him to store logs and lumber on her property as she has acres of land. Further, he explained he put up a privacy fence to keep people from being able to see anything on the property. He stressed down the street there is a junkyard, and there are trailer factories up the road on his other side. Mr. Auvil stressed that Staff wanted to be clear that storage and operating of business is not allowed on other people's property. Mr. Hesser stated the Board can't authorize him to have his storage on a neighboring property anyway. He continued to say how can the petitioner conduct his business on his own property when his business is, in actuality, going onto other people's properties. Mr. Auvil responded parking of his equipment and vehicles is a part of the operation if his business on his property. Mrs. Cramer explained that part of the operation is bringing wood to the subject property and chopping it up. Mr. Hesser reiterated that if the Board says no business can be operated off-site then how will he run his business. He went on to say, that if the concern is that his operation encroaches onto the neighbors' property, then permission for that can't be given anyway, therefore he understands why Staff made that commitment. Further, he stated that the storing of items on the neighbor's property is between him and his neighbor, and this commitment will cause more confusion than solving any issues. Mrs. Cramer stated that item number 3 of the commitments; no outdoor storage other than vehicles and equipment, also needs to be addressed, because he has lumber and logs stored outside. Mr. Hesser stated the building is a big building, as it is almost 80% over what is allowed by right, but if no one has a problem with it then he doesn't either. Mr. Stephens explained he did get permits for all of his buildings, and he was given permission to build all the current buildings on his property from the Building Department. He went on to say he turned his two-stall garage into a family room and back to the left there is a workshop with storage. Mr. Norman asked when he plans to grind down the stockpile of wood and lumber on the neighboring property. Mr. Stephens responded he

plans on doing that at the end of the year, and a friend of his has a wood mill that comes and takes a lot of the logs to make lumber. He continued to say he does a lot of work for free to help people out when they need firewood. He stressed he doesn't have a junk site, and he keeps his place nice and his equipment looking good.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated all of his questions have been answered but commitment number 2 needs to be removed.

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

**Motion: Action:** Approve, **Moved by** Steve Warner, **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 a Special Use for a home workshop/business for a tree stump removal 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. A revised site plan must be submitted for staff approval showing all business operations only on the petitioner's property and outdoor storage of vehicles and equipment only.

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. All parking must be on dust-free surfaces.
3. Approved for a period of one (1) year. Any renewal must go before the Board of Zoning Appeals.

Further, the motion also included that 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 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 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 = 4).

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

14. The application of *John Wayne Patterson* for a Special Use for a home workshop/business for a utility trailer manufacturing business, 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

Southeast corner of US 20 & CR 29, common address of 57026 CR 29 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0557-2023*.

There were nine neighboring property owners notified of this request.

John Patterson, 16648 US 20, Goshen, was present for this petition. He stated he would like to build flatbed and utility trailers. Mr. Warner asked how many per week he is planning on building. Mr. Patterson responded he isn't sure, because he is the only employee, but possibly 2 per week. Mr. Warner asked if he has adequate room to get the units off the road. Mr. Patterson responded yes. Mr. Hesser asked if he has any current employees. Mr. Patterson responded no, he doesn't have any employees right now. Mr. Hesser asked how soon he would be hiring employees. Mr. Patterson responded it depends on if he finds he needs help to get work done. Mr. Norman asked if he will have steel and aluminum delivered on-site. Mr. Patterson responded he won't be doing anything with steel. Mr. Norman asked if the aluminum will be delivered to the subject property. Mr. Patterson responded he will pick up the materials himself and all materials will be stored inside.

Michele Blough, 57446 CR 29, Goshen, was present in remonstrance. She asked if there is a limit to the number of employees that can be requested before it isn't a home workshop/business any longer. Mr. Hesser responded there is a limit of 2 employees, and there is no limit to the number of employees a petitioner can ask for with a Developmental Variance. He continued to explain that the Board will make a judgment call on each case whether or not it is outgrowing a home workshop/business. Mrs. Blough stated her son told her Mr. Patterson is a good person and has been a good neighbor, but she is still concerned that this will be the trend for the area. She went on to say her questions about deliveries have been answered, but she has a question about his accessory structure being built. She stressed she is concerned about the hours of operation and the noise that this will create. She asked if the accessory structure mentioned is the existing pole barn or if a new one is going to be built. Mr. Hesser responded the accessory structure is an existing pole building. Mrs. Blough stated south of the existing building, used to be a pasture. She asked if the mention area will stay grassland or if he will be paving that area for storage, as there is a wetland nearby. She stated she is concerned about runoff and contamination of the natural waterways.

Mr. Patterson came back on to respond. He stated he doesn't know what would be running off into the water. Mr. Hesser asked if he plans on storing finished units outside. Mr. Patterson responded he builds to order and will not be storing units onsite, because he wants to get the unit to the customer as soon as possible. He stressed if he does have to store a unit outside it would only be for maybe a day before the unit is picked up. Mr. Hesser asked where he would be putting the units outside. Mr. Patterson responded he would put them in the front, so the traffic could see how nice he makes them. However, he continued if he has more than one then he would put it out back. Mrs. Cramer asked how many a week he will build. Mr. Patterson responded with just him building, he could do 1 a week. Mrs. Cramer asked how many maximum he would store outside a week. Mr. Patterson responded he would store a maximum of 2 outside. Mr. Warner stated his main operations will consist of welding and cutting of aluminum. He asked if any containments will leave the property since all work will be inside. Mr. Patterson responded no, all work will be

done inside. Mrs. Cramer clarified his hours of operation will be from 5 a.m. to 2 p.m. Monday through Friday. Mr. Patterson stressed there won't be any noise outside either.

The public hearing was closed at this time.

Mr. Hesser stated he wouldn't grant 3 employees, because he isn't needing them right now. He added he might not ever need them. Mrs. Cramer stated she agrees that it isn't necessary to allow for 3 employees.

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

**Motion: Action:** Approve, **Moved by** Steve Warner, **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 utility trailer manufacturing 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. A revised site plan must be submitted for staff approval showing the outdoor storage labeled and building setbacks of the accessory structures.

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.

Further, the motion also included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be approved with the following conditions imposed:

1. 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 revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

Further, the motion also included that a Developmental Variance to allow for 3 outside employees (Ordinance allows 2) be denied.

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

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

15. The application of *Roberto Barrera Zuniga & Isabel P. Arizpe Martinez, 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, for a 6 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing shed and chicken coops 4 ft. from the rear property line, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 3 ft. from the north side property line, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 1 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 4 ft. from the south side property line on

property located on the East side of CR 27, 550 ft. South of CR 40, common address of 66102 CR 27 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-0473-2023*.

There were 22 neighboring property owners notified of this request.

Oscar Barrera, 1319 White Blossom Dr., Goshen, was present representing his father for this petition. Mr. Hesser explained they tabled this request last month due the petitioner being absent and there was a remonstrator present with complaints about the rabbits and roosters. Mr. Barrera responded the rabbits will be gone as his dad is looking for a home for them. He added all of the roosters are now gone. He continued to say that his dad only wants to keep 6 to 8 chickens. Mr. Hesser explained Staff needs a revised site plan showing that the buildings are moved and in compliance with the setbacks. Mr. Barrera responded he is okay with what is being asked of them. Mr. Norman asked if a timeline should be put this on to make sure the chicken coops are moved. Mr. Hesser asked if the chicken coops can be moved. Mr. Barrera responded they can be moved.

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 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 chicken coops and rear shed meeting the minimum rear and side setbacks.
3. Permits for all structures over 120 sq. ft. with passing final inspections are required.
4. The petitioner has thirty (30) days to move all chicken coops to the allowed setbacks.

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 twelve (12) chickens and no roosters, at any one time.

Further, the motion also included that for a 6 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing shed and chicken coops 4 ft. from the rear property line, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 3 ft. from the north side property line, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 1 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 4 ft. from the south side property line be denied based on the Staff Analysis.

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

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

16. The application of *Cristina Giles & Evan Giles, Husband & Wife* for an Amendment to an existing Special Use for a home workshop/business for a carpentry/home improvement business to allow for an addition to the existing building 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 Northwest side of Glenmoor St., 370 ft. Northeast of Doner Ct., common address of 52933 Glenmoor St. in Cleveland 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-0477-2023*.

- There were 40 neighboring property owners notified of this request.
- The petitioner was not present at this time.
- There were no remonstrators present.

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

**Motion: Action:** Table, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that this request for an Amendment to an existing Special Use for a home workshop/business for a carpentry/home improvement business to allow for an addition to the existing building be tabled until the October 19, 2023, Advisory Board of Zoning Appeals meeting due to the absence of the petitioner.

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

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

17. The meeting was adjourned at 10:40 A.M.

Respectfully submitted,

---

Danielle Richards, Recording Secretary

---

Randy Hesser, Chairman

---

Ron Norman, Secretary