

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 21st DAY OF AUGUST 2025 AT 9:00 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Laura Gilbert, Administrative Coordinator; Danny Dean, Planner and Don Shuler, Attorney for the Board.

Roll Call.

Present: Roger Miller, Cory White, Steve Warner, Randy Hesser.

Absent: Debra Cramer.

2. A motion was made and seconded (*Miller/White*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 17th day of July 2025 be approved as read. The motion was carried with a unanimous roll call vote.

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 **Kevin L. Hoff & Jennifer L. Hoff** 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 Northwest corner of San Jose Blvd. & San Lu Rae Dr., common address of 54874 San Jose Blvd. in Cleveland 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-0426-2025.

There were 35 neighboring property owners notified of this request.

Jennifer Hoff, 54874 San Jose Blvd., Elkhart was present for this request. Ms. Hoff stated she wants to keep her animals. She continued by saying she has 12 chickens, 3 ducks, and 1 turkey. Mr. Hesser clarified she has coops for the birds and the area is fenced in.

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** 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 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 6/27/2025) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens (no roosters), three (3) ducks, and one (1) turkey.

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

Yes: Roger Miller, Cory White, Steve Warner, Randy Hesser.

5. The application of *Union Center Church of the Brethren, Inc.* for an amendment to an existing Special Use for a place of worship to allow for an electronic message board on property located on the Southwest corner of CR 50 & CR 11, common address of 70535 CR 11 in Union Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0113-2025.

There were 14 neighboring property owners notified of this request.

Todd Lehman, Signtech, 1508 Bashor Rd., Goshen, was present for this request. Mr. Lehman stated the church wants to replace their current sign with an electronic message board. Mr. Hesser clarified the sign is remaining in the same place and size.

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 place of worship to allow for an electronic message board 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 6/20/2025) and as represented in the Special Use Amendment application.

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

Yes: Roger Miller, Cory White, Steve Warner, Randy Hesser.

6. The application of *Michael Scott* 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 North side of Aric Way, 690 ft. East of Clayton Ave., 320 ft. South of CR 22, common address of 24619 Aric Way 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-0465-2025.

There were 34 neighboring property owners notified of this request.

Michael Scott, 24619 Aric Way, Elkhart, was present for this request. Mr. Scott stated he wants to keep his chickens. He noted he was unaware that a Special Use is required for chickens in the county. He continued saying the chickens are supervised when they roam and the area is fenced. Mr. Hesser asked about disposing of the waste. Mr. Scott replied it is mixed in with compost and used for fertilizer.

Mr. Auvil presented a letter received via email in remonstrance from Debra Reinhart, 24612 Aric Way, Elkhart. The letter cited public health and sanitation, noise and nuisance, property values, zoning precedent, compliance, and follow-up inspection. *[attached to file as staff exhibit #1]*.

Lawrence Burns, 24577 Belmar Dr. was present in remonstrance. Mr. Burns stated he lives .2 miles downwind of Mr. Scott. Mr. Burns continued by saying the size of the area available for Mr. Scott's chickens appears to be inadequate. Mr. Burns also voiced concerns about groundwater contamination. Mr. Burns added he is concerned about the precedent approval of this request would set for agricultural animals in the subdivision.

David Brown, 24553 Aric Way, Elkhart, was present in remonstrance and submitted 4 anonymous letters against this petition. *[attached to file as remonstrator exhibit #1]*. Mr. Brown read each letter to the Board. He then reiterated Mr. Burns' concern of ground water contamination. Mr. Hesser clarified the letters are from residents in the neighborhood.

Mr. Scott came back to the podium to respond to the remonstrators. He stated not one person provided any study relating to ground water contamination. He continued by saying the noise complaint was related to a rooster he no longer has. Mr. Miller asked Mr. Scott if he is aware of any other homes in the neighborhood that have chickens. Mr. Scott responded yes. He continued by stating there is no HOA for this neighborhood.

The public hearing was closed at this time.

Mr. Hesser clarified this is not a request for a zoning change. He clarified this is a Special Use that is permitted in an R-1 zone. He continued by saying the Board limits the number of chickens out of concern for contamination and sanitation. Mr. Hesser reminded the remonstrators the County is complaint driven, and the situation can be monitored by complaints for non-compliance.

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 an agricultural use for the keeping g 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 setbacks from the coop to the property lines.

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 fourteen (14) chickens at any one time, no roosters.

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

Yes: Roger Miller, Cory White, Steve Warner, Randy Hesser.

7. The application of *Trinity Lutheran Church of Elkhart, Inc.* for an amendment to an existing Special Use for a place of worship and school to allow for a new sign on property located on the Southeast corner of CR 6 & Ash Rd., common address of 30888 CR 6 in Cleveland Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0450-2025.

There were 66 neighboring property owners notified of this request.

Doug Merrit, 216 Lincolnway East, Osceola, was present for this request. Mr. Merrit stated a revised site plan will be submitted showing all of the signage on the church campus.

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 place of worship and school to allow for a new sign 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 existing signage with type, dimensions, and setbacks from 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 Amendment application.

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

Yes: Roger Miller, Cory White, Steve Warner, Randy Hesser.

8. The application of *Randall W. Meade & Anita K. Meade, Husband & Wife* for a Special Use for a home workshop/business for a hair salon on property located on the East side of Regent St., 335 ft. North of CR 40, common address of 65950 Regent St. in Elkhart Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0469-2025.

There were 12 neighboring property owners notified of this request.

Anita Meade, 65950 Regent St., Elkhart was present for this request. Mrs. Meade stated she wants to put a one-chair salon in her home. Mr. Hesser clarified she will not have other employees. Mr. Hesser asked how many customers she will have in a week. Mrs. Meade replied around 20 per week.

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 a home workshop/business for a hair salon 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 7/14/2025) and as represented in the Special Use application.

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

Yes: Roger Miller, Cory White, Steve Warner, Randy Hesser.

It should be noted that Mr. Hesser recused himself and stepped down

9. The application of **Concord Community Schools Building Corporation** for an amendment to an existing Special Use for a school to allow for an electronic message board and for a Developmental Variance to allow for an electronic message board within 300 ft. of a residence on property located on the Southeast corner of Arlene Ave. & Playview Pl., 500 ft. Southwest of US 33, common address of 23702 Arlene Ave. in Concord Township, zoned R-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0428-2025.

There were 66 neighboring property owners notified of this request.

Todd Lehman, Signtech, 1508 Bashor Rd., Goshen, was present for this request. Mr. Lehman explained the existing sign is being replaced by an electronic message board and the Developmental Variance is needed due to the proximity of area residences.

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** Roger Miller, **Seconded by** Cory White 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 electronic message board 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 6/30/2025) and as represented in the Special Use Amendment application.

Further the motion also included that a Developmental Variance to allow for an electronic message board within 300 ft. of a residence be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development 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 6/30/2025) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3).

Yes: Roger Miller, Cory White, Steve Warner.

Excused: Randy Hesser.

It should be noted that Mr. Hesser returned to the Board at this time

10. The application of **Francisco Ochoa-Valles** for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the North side of CR 40, 1,160 ft. West of CR 31 in Elkhart Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as Case #UV-0472-2025.

There were 15 neighboring property owners notified of this request.

The petitioner was not present for this request.

Petition moved to item #12 on page 8.

11. The application of **Cody Perry** for a Use Variance for a salvage yard, for a Use Variance for a shipping container, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing shipping container 3 ft. from the South side property line, 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 East side of CR 5, 915 ft. Northwest of CR 3, common address of 51684 CR 5 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 #UV-0453-2025.

There were 16 neighboring property owners notified of this request.

Cody Perry, 51684 CR 5, Elkhart, was present for this request. Mr. Perry stated he wants to use his property to store vehicles and sell parts from the vehicles on eBay. Mr. Hesser asked Mr. Perry how many cars he will have on the property at one time. Mr. Perry stated about 20 cars.

Mr. Miller asked Mr. Perry how long he has been selling parts from his property. Mr. Perry stated about 5 years. Mr. White asked Mr. Perry if this is his full-time job. Mr. Perry responded by saying he has a full-time job, and his hobby of selling parts became a part-time job. Mr. Hesser clarified the vehicles stored on the property are not operational. Mr. White asked how the vehicles are brought to the property. Mr. Perry stated he has two tow trucks that he also keeps on the property. Mr. Miller asked if the property is fenced. Mr. Perry stated three sides are chain link fence and one side is privacy fence.

Brian Dickerson, 51693 CR 5, Elkhart, was present in remonstrance. Mr. Dickerson stated just to the south of this property is the North Wellfield drinking water protection area, and he has concerns about the impact of a salvage yard on that protected area. He continued by stating his concern about the impact a salvage yard will have on property values. He stressed the importance of protecting drinking water and contaminated areas.

Randall Wild, 51627 CR 5, Elkhart, was also present in remonstrance. Mr. Wild reiterated the same concerns as Mr. Dickerson.

Mr. Auvil presented an email from Scott & Budour Bailey, 51680 CR 3, Elkhart in remonstrance to this petition. *[attached to file as staff exhibit #1]*. Mr. & Mrs. Bailey stated they are extremely opposed to this Use Variance, because of the detrimental impact on the environment as well as a reduction in property values.

Mr. Perry came back to the podium to address some concerns of the remonstrators. He stated he drains the fluids from the cars inside his shop, so there should not be any contamination. He continued by saying he has a guy that pumps the fluids out of his containers and takes the fluids off the property. He also stated he recycles the batteries.

The public hearing was closed at this time.

Mr. Miller stated the location of this property is not acceptable for a salvage yard. Mr. Warner stated his concern about the size of the property for such a large-scale operation. Mr. Warner asked if IDEM needed to be involved due to the nature of this business and how the property is zoned. Mr. Auvil responded that a zoning affidavit would be required, and he has not been made aware of one being submitted for this property.

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

Motion: Action: Deny, Moved by Cory White, Seconded by Randy Hesser that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance for a salvage yard be denied.

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

Yes: Cory White, Randy Hesser, Roger Miller, Steve Warner.

Motion: Action: Deny, 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 the request for a Use Variance for a shipping container be denied.

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

Yes: Cory White, Randy Hesser, Roger Miller, Steve Warner.

The request for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing shipping container 3 ft. from the South side property line and for a Developmental Variance to

allow for the total square footage of accessory structures to exceed that allow by right was acted upon as follows: **MOOT** as a result of the Use Variance denials.

12. The application of **Francisco Ochoa-Valles** for a Use Variance to allow for the construction of an accessory structure without a residence on property located on the North side of CR 40, 1,160 ft. West of CR 31 in Elkhart Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0472-2025*.

The petitioner was still not present for this request.

Art & Ronda Baer, 16123 CR 40, Goshen, were present in remonstrance. Mrs. Baer stated the covenants for their subdivision states the use is for single family residences only. She continued to say she has concerns about property values going down. Mr. & Mrs. Baer provided a copy of the covenants and restrictions for their subdivision. *[attached to file as remonstrator exhibit #1]*. They also mentioned another accessory structure in the area being used as a business.

Moses Troyer, 16179 CR 40 was also present to remonstrate. Mr. Troyer stated he lives right next to this lot and reiterated only single-family homes can be built on the subdivision lots.

The public hearing was closed at this time.

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

Motion: Action: Table, **Moved by** Randy Hesser **Seconded by** Roger Miller that this request for a Use Variance to allow for the construction of an accessory structure without a residence be tabled until the September 18, 2025, 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: Roger Miller, Cory White, Steve Warner, Randy Hesser.

13. The meeting was adjourned at 10:09 A.M.

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Debra L. Cramer, Secretary