

BZA_BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 17th DAY OF JULY 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 Vice-Chairperson, Roger Miller. Staff members present were: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Laura Gilbert, Administrative Coordinator; Danielle Richards, Planner; Danny Dean, Planner; and Don Shuler, Attorney for the Board.

Roll Call.

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

2. A motion was made and seconded (*Warner/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 19th day of June 2025 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Cramer/Warner*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

*****It should be noted that Randy Hesser arrives at this time*****

4. The application of ***Sarah Lynne Swiergosz & Michael Joseph Swiergosz, Wife & Husband*** 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 West side of Nottingham Ln., 1,045 ft. South of Janiper Dr., 1,145 ft. West of CR 15, common address of 60427 Nottingham Ln. 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-0342-2025.

There were twenty-six neighboring property owners notified of this request.

Sarah Swiergosz, 60427 Nottingham Ln., Goshen was present for this request. Mrs. Swiergosz stated she wants to be able to keep the chickens she currently owns on her property. Mr. Warner asked how many chickens she currently has. Mrs. Swiergosz responded she has four. She continued by saying she applied for the maximum number of chickens on the application but is not sure if she will have more than four. She also stated she does let the chickens roam her yard and the yard has a six-foot privacy fence. Mr. Miller asked how the waste will be disposed of. Mrs. Swiergosz stated it gets put in the trash or in a burn pile.

There were no remonstrators present.

Mrs. Gilbert stated Staff received an anonymous letter in the mail in remonstrance to this petition. The letter stated the chickens were causing rats to come into the complainant's yard, and it was submitted for the record. *[Attached to file as staff exhibit #1]*

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** 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 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 5/21/2025) 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, no roosters.

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

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

5. The application of *Merle E. Miller & Mary E. Miller, Husband & Wife* for a Special Use for a catering establishment on property located on the West side of SR 15, 2,550 ft. South of US 6, common address of 72493 SR 15 in Jackson 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-0395-2025*.

There were 7 neighboring property owners notified of this request.

Merle Miller, 72493 SR 15, New Paris was present for this request. Merle Miller stated he wants to put in a commercial kitchen for his catering business. Mr. Roger Miller asked if he will have any parking spaces on site and how the food gets delivered. Merle Miller responded he will not have parking on site, and the food gets put in the back of his vehicle or in a trailer.

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** 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 catering establishment 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 proposed sign's height, the right-of-way line, and the sign's setback from the right-of-way line (minimum 3 ft.).

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 = 5).

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

6. The application of **David Chupp & Carrie Chupp, Husband & Wife (Buyers) & Beulah M. Schlach** (**Seller**) 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 CR 35, 700 ft. North of CR 20, common address of 58864 CR 35 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-0389-2025.

Mr. Hesser asked Mr. Auvil if staff is requiring a revised site plan, because the current one is not to scale. He also questioned the amount of pasture shown on the site plan. Mr. Auvil responded it is best to ask the homeowner questions regarding the pasture size.

There were ten neighboring property owners notified of this request.

Chris Yoder, general contractor, 64265 CR 35, Goshen, was present for this request. Mr. Yoder stated the site plan does not show the 16 ft. gate on the south property line to a neighbor's property that will provide additional pasture for the horses. Mr. Hesser asked Mr. Yoder if he knew how much actual pasture is on the petitioner's property. Mr. Yoder stated he was not sure, but there is more pasture available on the neighbor's property.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser requested a revised site plan closer to scale, accurately showing the pasture size.

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 an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved as amended 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. Petitioner to submit a revised site plan drawn closer to scale, accurately showing the pasture size.

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 request 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: Debra Cramer, Steve Warner, Cory White, Roger Miller, Randy Hesser.

7. The application of **Acres Inc.** for a Special Use for a nature preserve on property located on the South side of CR 12, 1,995 ft. East of CR 131, in Middlebury 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-0404-2025*.

There were thirty-two neighboring property owners notified of this request.

Joanna Stebing, Acres Land Trust, 1802 Chapman Rd., Huntertown, was present for this request. Ms. Stebing stated this property will be their first public nature reserve in Elkhart County. She continued by saying there will be public parking for six vehicles. Ms. Stebing described the preserve as an area with public trails, open to the public to enjoy nature's beauty. Mr. Warner clarified there will no longer be any farming on this property. Ms. Stebing agreed. Mr. Miller asked about maintaining the preserve. Ms. Stebing stated they have stewardship teams as part of the Acres Land Trust that will maintain the preserve.

Tambi Jones, 15011 CR 12, Middlebury, was present to remonstrate. Mrs. Jones stated her main concern is the additional traffic to the area. Mrs. Jones also expressed concerns about people doing illegal activities on the property. She continued by saying there is not a need for this nature preserve, because Bonnyville Mill is two miles down the road.

Randy Dillon, 55492 CR 131, Bristol, came to remonstrate. Mr. Dillon also expressed concerns about traffic and illegal activities taking place. He continued by stating concerns about there being no bathrooms and trash accumulating.

Tim Torrance, 15315 CR 12, Middlebury, was also present to remonstrate. He explained his main concern is what will take place in the future. Mr. Torrance stated he does not understand the need for this nature preserve. Mr. Torrance also stated his concern about people trespassing on his property.

Joe White, 15095 CR 12, Middlebury, also came to remonstrate. Mr. White stated his property is directly north of the proposed parking lot for the nature preserve will be, which he objects to. He stated he believes the proposed location is too steep, and there are better locations for on the property for the parking lot. He continued by stating his concern for policing and maintaining the nature preserve, especially in the evening hours. Mr. White also expressed concerns about the public trespassing on his property.

Jeannine Tom, 54881 CR 33, Bristol, was present to remonstrate. Mrs. Tom reiterated the same concerns as the previous remonstrators.

Joanna Stebing came back to the podium to address the concerns made by the remonstrators. Ms. Stebing stated their stewardship teams have visited the property and chosen the location for the proposed parking lot. She noted she had no part of the decision about where to locate the proposed parking lot, so she is unsure why that location was chosen. She continued by saying Acres Inc. is available 24/7 via email, phone etc. to communicate if the area needs clean up. Ms. Stebing then noted the hours open to the public are from dawn to dusk. Mr. Hesser clarified there are no lights, picnic tables, or garbage receptacles at this proposed nature reserve. Ms. Stebing confirmed his statement. Mr. White asked Ms. Stebing if there are deed restrictions on its properties, restricting further development. Ms. Stebing stated that is correct. She continued by saying the restrictions prohibit any expansion or future development. Mr. White noted the nature preserve will be less detrimental to the neighboring properties than if this property is developed into agricultural uses that are allowed by right or a dense residential neighborhood. Ms. Stebing continued by stating her company has a long-standing reputation of maintaining all properties that they own. Mr. Warner asked if they have any camera monitoring systems at any of their properties. Ms. Stebing stated there has not been a need, but they are not opposed to it.

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** 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 nature preserve 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 6/16/2025) and as represented in the Special Use application.

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

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

8. The application of ***Timothy Yoder & Janae Schrock (Buyers) & Matthew Herr & Adrena Mathieu (Sellers)*** 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 CR 14, 900 ft. West of Bristol Ave. (CR 8), common address of 13043 CR 14 in Middlebury 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-0394-2025*.

Mr. Hesser requested clarification as to why the staff is recommending denial for this petition. Mr. Dean explained denial is recommended because the amount of proposed pasture for the horse is less than one acre. He continued state staff continues to see requests for horses on smaller parcels in more dense areas than in the past. He added that staff consulted with the Ag Agent for Plan Commission who recommended two acres of pasture per horse. He noted staff is trying to move towards that, resulting in a recommendation of one acre or close to that per horse. He explained the proposed pasture measured to approximately 1/3 of an acre for this request, which staff felt is too small even for one horse.

There were fourteen neighboring property owners notified of this request.

Tim Yoder, 11601 N 225 W, Rome City, was present for this request the property buyer. Mr. Yoder stated he plans to build a small barn and fence for one horse. Mr. Hesser asked Mr. Yoder if he knew the exact acreage of the pasture. Mr. Yoder stated he did not measure the area for the pasture. Mr. Hesser then asked Mr. Yoder how he plans to dispose of the waste. Mr. Yoder stated he will spread it on a field. Mr. Hesser clarified the horse is for transportation. Mr. Yoder confirmed. Mr. Yoder submitted a petition signed by fifteen neighbors in favor of approving this request. *[attached to file as petitioner exhibit #1]*

Nathan Schwartz, Remax, 52037 CR 25, Bristol, came to the podium as the petitioner's Realtor. He pointed out the neighbors on the aerial that signed the petition.

Matthew Herr, (Seller), 13043 CR 14, Middlebury, was present as the property seller in favor of this request. He began by saying the few houses to the west of this property have horses.

He noted he does not see a problem with one horse on a property this size, especially since it is needed for transportation.

Kurt Borgmann, Middlebury Church of the Brethren, 507 Bristol Ave., Middlebury, was present in remonstrance. Mr. Borgmann stated the property directly to the west of this property has several horses that have compacted the ground, creating flooding from heavy rains onto the church property. He noted the grade is downhill from the subject property and the property to the west, so the water flows directly into the church's parking lot. He continued by saying approval of a horse on this property will exacerbate the flooding problem.

Mike Roebuck, Middlebury Church of the Brethren, 507 Bristol Ave., Middlebury was also present in remonstrance. He stated there is also a concern about the water from the subject property possibly containing manure getting close to the children's playground. He stresses it could cause an unsanitary situation near where the children play outside.

Tim Yoder came back to the podium to address the concerns. He stated he doesn't believe having one horse will cause the same issues, as the neighbor to the west that have 8-10 horses. Mr. Yoder continued by saying they will make sure to clean up after the horse in a prompt manner.

The public hearing was closed at this time.

Mrs. Cramer and Mr. Miller both expressed concerns about the size of the property and the small pasture area for the horse. Mr. Hesser made the point that the Board just approved a similar petition, and he is in favor of approval. Mrs. Cramer requested clarification on the disposal of the waste. Mr. Yoder came back to the podium and stated it would be put in a bin until full and then spread on his dad's fields of ten acres.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Cory White 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 based on the Findings and Conclusion of the Board:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. An agricultural use on less than 3 acres is allowed by Special Use in the A-1 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 1.45-acre parcel in a low-density residential and agricultural area, and the parcel will remain residential and agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a transportation option.

The following condition was imposed:

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

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 6/13/2025) and as represented in the Special Use application.
2. The request is limited to a maximum of one (1) adult horse at any one time.

Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).

Yes: Cory White, Steve Warner, Randy Hesser

No: Debra Cramer, Roger Miller.

9. The application of *Elkhart Christian Academy, Inc.* for an amendment to an existing Special Use for a school to allow for a building addition, additional parking, sign, drive, playground and tennis courts on property located on the Northeast corner of CR 22 & CR 9, common address of 25887 CR 22 in Concord Township, zoned R-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0403-2025.

There were seventeen neighboring property owners notified of this request.

Crystal Welsh, Abonmarche, 303 River Race Dr., Goshen, was present for this request. Ms. Welsh stated the school wants to expand to accommodate more students, faculty and outdoor recreation. She continued to say the biggest part of the expansion will include a second drive to access the school.

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 an amendment to an existing Special Use for a school to allow for a building addition, additional parking, sign, drive, playground and tennis courts 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 7/10/2025) and as represented in the Special Use Amendment application.

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

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

10. The application of *Dewey R. Price & Diana K. Price, Husband & Wife* for a Special Use for a roadside stand & 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 50, 675 ft. West of CR 9, common address of 26150 CR 50 in Union Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0399-2025.

There were 6 neighboring property owners notified of this request.

Dewey Price, 26150 CR 50, Nappanee, was present for this request. Mr. Price stated he wants to have a roadside stand and picnic table to offer baked good to people in the neighborhood and people passing by. Mr. Hesser asked if the shed on the site plan is for displaying the food. Mr.

Price stated yes. Mr. Hesser asked Mr. Price if they will have any outside employees. Mr. Price stated no, just he, his wife, and their special needs child. Mr. Hesser asked for clarification on the location of the proposed shed. Mr. Price indicated it will be 75 ft. from the centerline of CR 50.

There were no remonstrators present.

The public hearing was closed at this time.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a roadside stand 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 6/16/2025) and as represented in the Special Use application.

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

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Cory White that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and base upon these, further moved that this request 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. 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 6/16/2025) and as represented in the Developmental Variance application.

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

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

11. The application of *Rosa A. Caldera De Bernal* for a Special Use for building and home improvement supplies, 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 4, 855 ft. West of CR 7, common address of 27357 CR 4 in Osolo 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-0368-2025*.

There were twenty-five neighboring property owners notified of this request.

Mr. Hesser asked for clarification on the buildings on the site plan. Mr. Auvil stated all the buildings are existing.

Judy Bernal, 27357 CR 4, Elkhart was present for this request. Mrs. Bernal stated she has been running a business for 2 years at this location. She added she stocks and sells overstock and liquidation materials, mostly flooring materials. She continued by saying the materials are stored in the barn at the back of the property. She explained the ceramic tile is sometimes stored outside, because it does not get damaged by the weather. Mr. Hesser stated the Board tries to discourage outside storage of materials. Mrs. Cramer noted the pictures in the staff report show a lot more than ceramic tile stored outside. Mrs. Bernal said she has done a lot of cleaning up on the property and has pictures to show just that. *[attached to file as petitioner exhibit #1]*.

Jason Ward, 51891 CR 7, Elkhart was present in remonstrance. He began by saying the petitioners are very nice people, but he opposes them running a business in a residential neighborhood. He continued by saying it is a quiet area with an abundance of wildlife present, and he does not want that to change. Mr. Ward submitted an aerial photo from 2024 of the subject property showing the debris and mess. *[attached as remonstrator exhibit #1]*.

James Kay, 27315 CR 4, Elkhart, was also present to remonstrate. He stated he lives right next door, and his view is trash and debris. He continued by saying he has not seen any improvement in the petitioner's property. Mr. Kay also stated that the dirt lane on the subject property runs right along his west side property line. He stressed there is lots of traffic in and out of the property 24/7 including semi-trucks and trailers.

Mark Hershberger, 27375 CR 4, Elkhart, also came to remonstrate. He started by saying he has nothing against the petitioner, but he claims the traffic going onto their property is horrendous. Mr. Hershberger also stated that people come to his house mistakenly looking for the petitioner's address. He continued by saying that he opposes the petitioners using the property for their business. Mr. Hershberger stated he has seen people in the back of the petitioner's property working on semi-trucks and trailers. He continued by saying the petitioner appeared to have people living in a camper in the backyard.

Stephanie Potter, 51915 CR 7, Elkhart was present in remonstrance. Mrs. Potter stated she is concerned about her children that play in her backyard that butts up to the petitioner's property. She also noted she opposes the traffic that is associated with the petitioner's business. Mrs. Potter reiterated that the petitioner did have people living in a camper and that semi-trucks were accessing the property through the dirt alley.

Leo Mansfield, 27360 CR 7, Elkhart, also came in remonstrance. He stated he lives across the street from the petitioner's property, and he objects to the traffic created by the business.

Mrs. Cramer asked the petitioner for clarification on where the trucks and potential buyers access the property. Mrs. Bernal stated there is a dirt alley on the east side of the property next to a row of evergreen bushes. She stressed any time she was issued a letter from code enforcement she immediately began doing as directed in the letter. She also clarified that the dirt alley on the east side of her property was there when she purchased the property. Mrs. Bernal stated she no longer has people working on semi-trucks and that at one time she had a friend living in her camper. She noted that these issues were part of the complaints filed against her, and they have been rectified.

The public hearing was closed at this time.

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

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 this request for a Special Use for building and home improvement supplies be denied.

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

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

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 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. 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 6/3/2025) and as represented in the Developmental Variance application.

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

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

12. The application of **Jesus Ocampo** for a Use Variance to allow for a waste related service & for a Special Use for a home workshop/business for a roofing business on property located on the East side of CR 7, 3,460 ft. South of CR 6, common address of 53670 CR 7 in Osolo Township, zoned R-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0405-2025*.

There were twenty-three neighboring property owners notified of this request.

America Martinez, 53670 CR 7 Elkhart, was present for this request. Ms. Martinez stated she understands the concerns of having dumpsters on the property, and she intends to build an 8 ft. privacy fence around her property lines. She continued by saying the dumpsters are used on site for shingles and debris generated by their dumpster business, and they store them on this property after being emptied. She stated they own them to save their company money because renting them for each job would not be cost effective. Mrs. Cramer asked how many dumpsters they currently have. Ms. Martinez stated they have 4 but would like six. Mr. Hesser asked for clarification on the number of employees for the roofing business. Ms. Martinez stated it is just her and her fiancé, and they hire subcontractors for the roofing business.

Kevin Head, 26895 Edwards Rd., Elkhart, was present in remonstrance. Mr. Head stated the rear of his property butts up to the rear of the petitioner's property. He strongly objected to the trucks and trailers, as well as the dumpsters, and the noise created by the business vehicles. Mr. Head submitted a petition in opposition to the Use Variance along with photos. *[attached as remonstrator exhibit #1]*. Mr. Millers asked Mr. Head if he would be opposed to a fence. Mr. Head stated he feels that it would only give the petitioners the opportunity to create more storage. He added it would not help with the noise.

David Strommen, 26867 Edwards Rd., Elkhart, was also present in remonstrance. Mr. Strommen stated he has lived on his property for 45 years. He opposed the traffic and noise associated with the business. He submitted a photo of the trucks and trailers on the property. *[attached as remonstrator exhibit #2]*.

Paul Holdeman, 53744 CR 7, Elkhart, also came in remonstrance. Mr. Holdeman expressed his strong disapproval of the request for a Use Variance. He continued by saying the truck noise and traffic from the business will hurt property values.

Rex Lovett, 26890 Edwards Rd., came to remonstrate as well. Mr. Lovett stated he has lived in the neighborhood for 19 years and has the same complaints as the other remonstrators.

America Martinez came back to the podium to address the concerns of the remonstrators. Ms. Martinez stated she intends to sell the 3 roll off dumpsters that are currently on site, but she would like to keep 3 dump trailers for job site use. Mr. Hesser asked if she would be willing to store them in a building. Ms. Martinez stated that she could certainly put up a building to house the dumpsters/containers. Mr. Miller stated her business card included in the staff report shows they rent the dumpsters. Ms. Martinez responded they do not rent them out anymore. She continued by saying the property has been cleaned up, and they are not at the subject property all hours of the day, only in the morning and evening.

The public hearing was closed at this time.

Ms. Martinez business partner (no name or address given) was asked to come to the podium for clarification of the specific business, hours and machinery used in the business. He said he is agreeable to whatever it takes to get the Use Variance approved.

Ms. Kratzer approached the podium to address the Board. She stated staff recommend denial for the Use Variance. She also requested the Special Use be tabled due to conflicting information between the Special Use Application and petitioner's testimony.

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

Motion: Action: Deny, Moved by Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these further moved that this request for a Use Variance to allow for a waste related service be denied.

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

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

Motion: Action: Table, Moved by Randy Hesser, **Seconded by** Debra Cramer that this request of a Special Use for a home workshop/business for a roofing business be tabled indefinitely to allow the petitioner time to clarify the scope of their business.

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

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

13. The application of *AMMF Trustee Corporation (Land Contract Holder) & Jesse A. Borkholder & Angela S. Borkholder, Husband & Wife (Land Contract Purchasers)* for a 9 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for the construction of an accessory structure 1 ft. from the rear property line on property located on the south side of CR 42, 1,900 ft. east of Ash Rd., common address of 30622 CR 42 in Locke Township, zoned A-1, came on to be heard.

Mr. Dean presented the Staff Report/Staff Analysis, which is attached for review as Case #DV-0230-2025.

There were 4 neighboring property owners notified of this request.

The petitioner did not appear at the hearing.

Mr. White made the point that regardless of whether a survey has been provided or not, the petitioner failed to demonstrate the need for the Developmental Variance.

Mr. Shuler questioned the time frame given to the petitioner to obtain a survey. Mrs. Gilbert clarified that the petitioner was given until the July 17, 2025, hearing date. Mr. Hesser suggested the Board can either table the petition indefinitely to allow time to obtain a survey or deny the petition. Mr. Miller suggested denying the petition. Mr. White asked if any staff have communicated with the petitioner. Staff replied no, it was the petitioner's responsibility to contact staff regarding the survey.

The public hearing was closed at this time.

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

Motion: Action: Deny, Moved by Roger Miller, Seconded by Cory White that the request for a 9 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for the construction of an accessory structure 1 ft. from the rear property line on property be denied based on the following Findings and Conclusions of the Board:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The setback encroachment is only at the rear, where there is no risk to public safety or welfare.
2. Approval of the request will not cause substantial adverse effect on neighboring property. A staff-recommended 5 ft. rear setback will reduce the need to be on neighboring property for construction and maintenance. The parcel is 4.1 acres and surrounded only by open agricultural property.
3. Strict application of the terms of the Development Ordinance would not result in unnecessary hardship in the use of the property. The petitioner did not demonstrate a hardship in strict application of the terms of the Development Ordinance as required for approval by the Board.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4 No = 1).

Yes: Debra Cramer, Steve Warner, Cory White, Roger Miller.

No: Randy Hesser.

14. The meeting was adjourned at 11:46 A.M.

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Debra L. Cramer, Secretary