

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 16th DAY OF JUNE 2022 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
117 N. 2nd STREET, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Chris Godlewski, Plan Director; Jason Auvil, Zoning Administrator; Danny Dean, Planner; Laura Gilbert, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

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

Absent: Steve Warner.

2. A motion was made and seconded (*Roger Miller/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 19th day of May 2022 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Roger Miller/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 **Harlan J. Miller** for a Special Use for a home workshop/business for wood finishing on property located on the South side of CR 12, 520 ft. West of CR 35, common address of 14340 CR 12 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-0380-2022*.

There were eight neighboring property owners notified of this request.

Jeremiah Hostetler, Freedom Builders, 54824 CR 33, Middlebury, was present representing the petitioner. He stated they want to convert part of the existing barn into a home workshop. He explained everything, including fumes and noise, will be contained within the building. Roger Miller asked if this is a current or new business. Mr. Hostetler responded this will be a new business. Roger Miller asked what kind of finishing will happen for this business. Mr. Hostetler responded chairs, bedframes, and cabinets, and they will be using spray and hand finish. Mrs. Cramer asked if there is electricity or are they running off of a generator. Mr. Hostetler responded they are running a diesel generator.

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 wood finishing 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 (5/27/2022) and as represented in the Special Use application.

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

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

5. The application of **Bradley J. Anderson** for a Special Use for the keeping of animals on a tract of land containing less than 3 acres located on the West side of SR 19, 1,850 ft. North of CR 30, common address of 61651 SR 19 in Olive 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-0376-2022*.

There were three neighboring property owners notified of this request.

Bradley Anderson, 61651 SR 19, Elkhart, was present for this petition. He stated he wants to build a pole building for his son's 4-H projects. He explained the 2 current buildings will be removed for the pole building to go up, and the building will only be used for 4-H projects. Mr. Hesser asked if they have chickens now. Mr. Anderson responded yes. Mr. Hesser clarified the chickens are in the 6 ft. by 6 ft. coop that is on the site plan. He asked how many chickens they currently have. Mr. Anderson responded they have 14 chickens. Mr. Hesser asked whether or not he will be okay with reducing to 12 chickens. Mr. Anderson responded he is okay with that reduction. Mr. Hesser asked how many goats they currently have. Mr. Anderson responded he has 7 adult goats. Roger Miller asked how he disposes of the waste. Mr. Anderson responded the waste is spread on the surrounding fields.

Timothy Anderson, 61625 SR 19, Elkhart, was present in support of this request. He stated he owns the farm all the around petitioner's property. He explained the waste gets plowed into his fields, and he approves of this request as the animals will be taken care of a lot easier if they are on their property.

Robert Pletcher, 27843 CR 30, Elkhart, was present in support of the request. He stated his farm land surrounds the subject property, and he is in support of this request.

Carolyn Pletcher, 27843 CR 30, Elkhart, was present in support of the request. She stated the children are in 4-H, and it is very important that the children learn from the experience. She stressed they should be allowed to have the things they need to continue doing 4-H.

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 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 final barn and pasture location.

The following commitments were imposed:

1. The request is approved in accordance with the site plan to be submitted for Staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of seven (7) adult goats and twelve (12) chickens at any one time, and no roosters.

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

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

6. The application of *Harley Detweiler & Lena Detweiler, Husband & Wife* for a Special Use for a commercial greenhouse and roadside stand on property located on the Southeast corner of CR 34 & CR 31, common address of 15708 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0391-2022*.

There were 11 neighboring property owners notified of this request.

Harley Detweiler, 15708 CR 34, Goshen, was present for this request. He stated they have a greenhouse, and he wants to be able to sell flowers and produce from a tent by the road during the summer. Mr. Hesser asked where the tent will be located on the subject property. Mr. Detweiler responded between the circle drive entrances. Mr. Hesser asked where the sign will be located. Mr. Detweiler responded it will be half way between the road and the drive on CR 31. Mr. Hesser explained Staff is asking for a revised site plan to show where the sign and tent will be located.

Edward Beehler, 15668 CR 34, Goshen, was present in remonstrance. He asked if there is an option to add another greenhouse. Mr. Hesser explained the request is for a greenhouse. Mr. Beehler asked if it is in addition to the one that is already there. He then asked where the parking will be located, because when it rains water runs straight to his property. It was clarified on the aerial where he lives in regards to the subject property. He stressed he just wants to know where the parking is going and if they are going, to add a second greenhouse building.

Harley Detweiler came back on to respond to the concerns. Mr. Hesser asked if he wants an additional green house or if he is just requesting the current greenhouse be granted. Mr. Detweiler responded he is just looking for the roadside stand. He went on to say that when he bought the greenhouse it was cheap, and he didn't realize he needed permission for the greenhouse. He continued to say there are no plans to put up a new greenhouse, unless they get really busy. Mr. Hesser clarified what is being asked for right now is just the current greenhouse. Mr. Detweiler stated parking will be on the western part of the subject property between CR 31 and his shed. Mr. Hesser clarified the parking area will have to be shown on the new site plan. Roger Miller asked if there is a drainage ditch for the water to run into. Mr. Detweiler responded there was a culvert that went underneath his driveway, but it was closed up this summer. He added he is unclear as to why it was closed up. Mr. Norman clarified the parking area will be gravel.

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 commercial greenhouse and roadside stand 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 roadside stand, showing the proposed sign, showing the proposed parking, and clarifying the setbacks of all structures.

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

7. The application of ***Zion Comunidad Cristiana Inc.*** for an Amendment to an existing Special Use for a place of worship to allow for a pavilion, an addition to the existing building, and 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 West side of CR 33, 1,050 ft. South of CR 52, common address of 71691 CR 33 in Benton 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-0395-2022*.

There were 11 neighboring property owners notified of this request.

Ruben Servantes, 71691 CR 33, Syracuse, was present for this request. He stated they would like to add a sign with a screen, build a pavilion beside the church, and add a storage room on the back side of the church. Roger Miller asked if they had someone lined up to put the sign in. Mr. Servantes responded he has been checking with different companies and getting quotes. Mrs. Cramer asked how far back the sign will be located from the road. Mr. Servantes responded it will be placed where it is allowed to be placed. He added the old sign didn't have a screen, and it was too far back from the road and driveway entrance. Roger Miller clarified a revised site plan is being asked for to show where that sign will be located. Mr. Norman asked if the proposed sign location is going to be where the 18 parking spaces are shown on the site plan. Mr. Servantes responded yes. Mr. Hesser stated the site plan shows a 20 ft. setback from the road. Mr. Dean explained Staff is asking for clarification on the site plan, because it shows 20 ft. but not from where. Mr. Servantes explained he wants to put the sign where it is legal to put the sign. Mr. Hesser asked Staff if they measure from the centerline of the road. Mr. Dean responded the sign has to be out of the right-of-way. Roger Miller stated when the permit is pulled they will have to stay within the setbacks allowed. Mr. Servantes asked if they could put in the sign themselves. Mr. Norman responded yes, but they still have to stay within the setback requirements. Mr. Hesser asked if the variance being asked for today is for the sign being too close to the residence not the setback from the road. Mr. Auvil responded that is correct.

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 a pavilion, an addition to the existing building, and an electronic message board be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for Staff approval clarifying the setback of the proposed electronic message board.

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.

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 Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the Building Permit (where required).
2. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

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

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

8. The application of ***Micky R. Reese & Julie C. Reese, Husband & Wife*** for a Special Use for indoor recreation (pitching lessons) 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 46, 750 ft. East of CR 21, common address of 20063 CR 46 in Jackson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0393-2022*.

There were 31 neighboring property owners notified of this request.
No petitioner was present at this time.

Darlene Stouder, 20130 Regina Rd., New Paris, was present in remonstrance. She stated she has talked to several of the neighbors that border the subject property, and they are opposed to the building going up. She continued to say they were concerned when the property was bought, because Mr. Reese wanted to take the fencing down. She stressed the fencing helps keep the children out of the woods. She stressed if this building goes up then it will create more people in the area and will take away from the look of the neighborhood. Mr. Hesser asked if the property is in the subdivision. Mrs. Stouder responded no, but the subdivision surrounds the subject

property. Mr. Hesser asked if there is a home owners association or covenants for the subdivision. Mrs. Stouder responded no there isn't a home owners association. She went on to say there are covenants, but they have never been enforced. Mr. Roger Miller asked if the fence is on the subject property. Mrs. Stouder responded she never established who owns the fence. Mr. Roger Miller asked if it runs along the woods on the west side of the subject property. Mrs. Stouder responded the fence runs along the west, north, and east sides of the subject property. She asked if Mr. Reese will have to put in restrooms for the training of the children, and why they can't utilize the public fields for training. She stressed the square footage of the building will take up a lot of the back area of the subject parcel. Mr. David Miller asked if the new proposed building is bigger than the current building. Mrs. Stouder responded yes, as far as she knows the current building is going to be taken down for the new building to go up in its place. She went on to say that a lot of the residents have enjoyed using the wooded area over the years, even though they don't own the property.

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

Motion: Action: Table, **Moved by** Ron Norman, **Seconded by** Randy Hesser that this request for a Special Use for indoor recreation (pitching lessons) and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be tabled until the July 21, 2022, Advisory Board of Zoning Appeals meeting due to the absence of the petitioner.

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

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

9. The application of *Church of the Brethern* for an Amendment to an existing Special Use for a place of worship to add 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 Northeast corner of CR 38 & CR 33, common address of 14987 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-0389-2022*.

There were 16 neighboring property owners notified of this request.

Stephanie Lehman, Signtech Sign Services, 1508 Asher Rd., Goshen, was present representing the petitioner. She stated the old sign had to be removed due to the widening of CR 38 and the church would like to replace that sign with an electronic message board. She explained the state mandates the manufactures have the signs automatically dim at night time. She continued to say they understand they are less than 300 ft. from the neighbors, but all of the neighbors have been talked to. She went on to say they are all okay with the sign being closer. Mr. Hesser stated the site plan doesn't show where the sign will be located. Mrs. Lehman responded the sign will be setback 55 ft., and they will work with the county on where to place the sign. She went on to say the church is working on a survey getting done, because the new deed isn't available for the piece of land that is missing on the current deed.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser stated his concern is he doesn't like not knowing where the sign will be located before approval.

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

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Ron Norman that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a place of worship to add an electronic message board be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for Staff approval showing all parcels that are on the recorded deed.

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.

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 Zoning Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan to be submitted for Staff approval and as represented in the Special Use Amendment application.

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

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

10. The meeting was adjourned at 9:46 A.M.

Respectfully submitted,

Danielle Richards, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary