

ELKHART COUNTY
ADVISORY BOARD OF ZONING APPEALS
Rules of Procedure

Article 1. Authority, Duties and Jurisdiction

1.01 Authority

The Elkhart County Board of Zoning Appeals (hereinafter called “BZA”) exists as an advisory Board of Zoning Appeals under authority of Indiana Code 36-7-4-901. These rules are adopted in accordance with the requirements of Indiana Code 36-7-4-916.

1.02 Duties

- A. The duties and powers of the BZA shall be those set forth in Indiana Code 36-7-4-900 Series.
- B. The BZA delegates to the Plan Director, Zoning Administrator and staff the authority to review and approve plans and specifications, and to grant Improvement Location Permits (Zoning Clearances), in accordance with the Elkhart County Subdivision Control Ordinance, Elkhart County Zoning Ordinance, Elkhart County Advisory Plan Commission Rules of Procedure and these Rules.
- C. The Plan Director and Zoning Administrator may refer any matter before him or her to the BZA for review and final decision. *(Amended by the Board of Zoning Appeals 03/20/14)*

1.03 Jurisdiction

The BZA’s jurisdiction consists of all of unincorporated Elkhart County and the incorporated Towns of Bristol, Wakarusa, Middlebury and Millersburg.

Article 2. Membership, Officers and Staff

2.01 Membership

- A. The BZA shall consist of five (5) members consistent with the provisions of Indiana Code 36-7-4-902 and 905. Each citizen member shall conform that he or she meets all applicable residency requirements for appointment by executing and filing with the BZA a certification of residency in the form set forth in Exhibit F of these Rules and incorporated herein by reference.
(Amended by the Board of Zoning Appeals 7/21/11)
- B. None of the BZA members may hold other elective or appointive office, except as permitted in Indiana Code 36-7-4-902 and 905.
- C. If a vacancy appears among the members of the BZA, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may also appoint an alternate member to participate with the BZA in any hearing or decision in which the regular member is disqualified under Indiana Code 36-7-4-909 or is otherwise unavailable to participate in the hearing or decision.
- D. A member who misses three (3) consecutive regular meetings may be treated as resigned at the discretion of the respective appointing authority.
- E. Members of the BZA, including any appointed alternate(s), shall be entitled to receive compensation for their services as a member of the BZA for the regular meetings of the BZA, within the BZA's budget as fixed by the Elkhart County Council. *(Amended by the Board of Zoning Appeals 03/20/14)*

2.02 Officers

- A. Elections
 - 1. At its first regular meeting in each year, the BZA shall elect from its members a Chairman, Vice Chairman and Secretary.
 - 2. A person receiving a majority vote of the entire membership of the BZA shall be declared elected. Each elected officer shall enter into office immediately upon being declared elected and shall serve until his or her successor is declared elected or until the officer is no longer a member of the BZA.
 - 3. When an office becomes vacant, the BZA shall elect a successor to complete the remainder of the unexpired term at its next regular meeting.
- B. Chairman

The Chairman shall preside at all BZA meetings and perform the duties of a presiding officer, including the appointment of committees and representatives (except as otherwise provided by statute, ordinance, or these rules), and ruling on all points of order and procedure, unless otherwise directed by these Rules or by a majority of the BZA present. The Chairman shall be a voting member in all matters. The Chairman shall sign all official documents on behalf of the BZA, or otherwise delegate these duties to the Secretary.

C. Vice Chairman

The Vice Chairman shall have the authority to act as the Chairman during the absence or disability of the Chairman.

D. Secretary

The Secretary shall certify all official acts of the BZA. In the event of the absence or disability of both the Chairman and the Vice-Chairman, the Secretary shall serve as Chairman *pro tempore*. In the event of the absence or disability of the Secretary, the Chairman of the BZA shall, when necessary, select a Secretary *pro tempore*. The Secretary shall be the custodian of the records of the BZA and shall be responsible for conducting all official correspondence of the BZA, serving notice of all public hearings, and serving notification to all members of the meetings.

2.03 Zoning Administrator

- A. The Zoning Administrator shall be designated by the Plan Director (hereinafter called the "Director") with the concurrence of the BZA. The duties and qualifications of the Zoning Administrator shall be as prescribed by the Director and consistent with the personnel policies of Elkhart County.
- B. All BZA requests for information or technical advice shall be made to the Zoning Administrator who will be responsible for assigning staff members to gather such information or provide such advice and for conveying such information or advice to the BZA.
- C. The Director shall establish personnel policies and administrative office procedures consistent with personnel policies of Elkhart County.

2.04 Staff

- A. Staff shall be hired and their duties and qualifications shall be as prescribed by the Director, consistent with personnel policies of Elkhart County, and within the BZA's budget as fixed by the Elkhart County Council.
- B. The BZA may contract for special or temporary service and any professional counsel.

2.05 Hearing Officer

The Elkhart County Advisory Plan Commission (hereinafter called the "Commission") has established a Hearing Officer to act on certain cases on behalf of the BZA. The Hearing Officer shall operate consistent with these Rules, the Commission's Rules of Procedure, the Elkhart County Zoning Ordinance, and in accordance with Indiana Code 36-7-4-923 and 924.

A. Appointment of the Hearing Officer

The Hearing Officer shall be appointed annually by the Commission for one (1) year. The Commission may appoint an alternate Hearing Officer to act on those cases where the Hearing Officer is unable, because of a conflict of interest or being otherwise unavailable, to hear and render a decision.

B. Limitations of Powers of the Hearing Officer

The Hearing Officer shall have the powers and duties to hear and render decisions as designated in the Elkhart County Zoning Ordinance.

C. Hearings Before the Hearing Officer – Conduct

1. All provisions adopted by the BZA under these Rules and as designated in the Elkhart County Zoning Ordinance for the conduct of public hearings and procedure related thereto, which are not inconsistent with law and/or these Rules, shall apply to hearings and proceedings before the Hearing Officer.
2. Conflicts of interest and communication with the Hearing Officer shall be regulated consistent with Indiana Code 36-7-4-909 and 920.
3. The BZA Secretary shall prepare and maintain a record of all Hearing Officer proceedings conducted. A copy of the record shall be filed in the offices of the BZA and shall be a public record.

D. Transfer of Proceedings from Hearing Officer to the Board of Zoning Appeals

1. At the time of submittal, a petitioner may request that a petition that would normally go to the Hearing Officer go to the BZA. However, if no such request is made, and the petition has been filed for consideration before the Hearing Officer, the proceedings may not be transferred to the BZA for hearing unless otherwise allowed by law or these Rules. *(Amended by the Board of Zoning Appeals 03/20/14)*
2. The Hearing Officer may transfer a petition to the BZA, without first conducting a hearing or making a decision, when the Hearing Officer determines that it would be in the best interest of all parties and/or the public for the BZA to hear, consider and act upon such petition. The transfer shall be to the next month's regularly scheduled meeting of the BZA.
3. In the event: (i) the staff makes a negative recommendation on a petition, (ii) the staff indicates that it does not object to the approval of the petition if specified conditions are attached and the petitioner does not accept the conditions, or (iii) the Hearing Officer imposes conditions and permits or requires the owner of the property to make a written commitment and the petitioner does not accept these conditions or make the commitment, then the petition or application shall be considered either withdrawn or transferred to the BZA if requested by the petitioner.
4. Any order, requirement, decision or determination of the Hearing Officer may be appealed to the BZA by any interested party who files a written request for an appeal with the staff within five (5) business days of that respective order, requirement, decision or determination. The BZA shall hear the matter *de novo*. *(Amended by the Board of Zoning Appeals 10/20/11).*

Article 3. Meetings

3.01 Time, Place of Public Meetings

- A. The BZA shall conduct its regular meetings according to a yearly schedule (the annual "Planning Calendar") adopted no later than the last meeting of the previous year. The BZA may amend the Planning Calendar at any time during a calendar year at a public meeting.
- B. The regular meetings of the BZA shall be held at the Elkhart County Department of Public Services Building, 4230 Elkhart Road, Goshen, IN, unless another location is published.
- C. If it is impossible to conduct a meeting at its regularly scheduled time, date or place, the Chairman may set an alternative time, date or place.
- D. As necessary, the BZA may also give notice and hold meetings at other places within Elkhart County where the meetings would be desirable to afford a better opportunity for public participation.

3.02 Applicability

These Rules apply to all meetings (including public hearings) required by state law, the Elkhart County Zoning Ordinance, or to any other special or regular meeting of the BZA.

3.03 Meetings Open To Public

- A. Except for executive sessions as permitted by law, all meetings of the BZA shall be open to the public and conducted in accordance with the Indiana Open Door Law, Indiana Code 5-14-1-1.5-1 et. seq. On-site inspections of property involved in petitions before the BZA shall not be considered meetings.
- B. Public meetings are meetings that are open to the public, at which the public may attend and observe, but the public does not have to be allowed to participate or make comments, except as the BZA may allow at its sole discretion. Public hearings are formal proceedings to seek public comment on a particular matter and the public shall be allowed to participate or make comments within the guidelines of these Rules. The BZA may conduct a public hearing as part of any regular or special meeting or at any other place or time if the notice required by the BZA and state law is given.

3.04 General Rules

- A. No action of the BZA is official unless authorized at a regular or properly called special meeting by a majority of the entire membership of the BZA.
- B. All meetings at which official action is taken shall be open to the general public.
- C. An agenda shall list all items to be considered by the BZA at a regular or special meeting.
- D. An agenda establishing the order of business shall be prepared for each meeting by the BZA staff and shall be distributed, along with support documentation for the items appearing at the meeting, to members of the BZA in a manner acceptable to them at least two business days before any regular meeting. The agenda

shall be available for public inspection at the offices of the BZA at least two business days before any regular meeting and shall also be posted at the location of the regular meeting at least two business days prior to the regular meeting date. No matter shall be considered by the BZA unless it appears on the agenda.

- E. The BZA shall keep minutes of its meetings. The minutes of BZA meetings and records shall be filed in the offices of the BZA and are public records. In addition to stating the date, time, and place of each meeting and reflecting the business conducted, the minutes shall also show the names of all BZA members and supportive staff present, indicating the late arrival or early departure of the BZA members. Minutes shall include the vote of each member present and voting on every question, whether or not a final decision is rendered. Should any member(s) be disqualified from participating and voting on any application or otherwise unable to participate with the BZA, an alternate member may be appointed by the appointing body to fulfill the duties of the disqualified member. The minutes of each meeting shall be approved (or amended and approved) at the next regular meeting. The approved minutes shall become official when signed by the presiding officer and attested to by the Secretary. Copies of the minutes of the previous meeting shall be submitted to BZA members prior to the next regular meeting.
- F. The BZA may digitally voice record / tape record the proceedings of each meeting to substantiate and clarify the official minutes.
- G. The BZA shall keep in its records all material relevant to each agenda item, including, but not limited to, required documents from the petitioner as part of the application; any data or evidence presented by either the petitioner and his or her supporters or by remonstrators at the public hearing; and any correspondence received by the BZA pertinent to the item. The records may be kept in hard copy or in electronic format, at the discretion of the BZA staff. All records shall be kept in the BZA's office and shall be a matter of public record, open for inspection during business hours.
- H. All meetings shall terminate automatically if a quorum is not present.
- I. Unless otherwise provided for in these Rules, meetings are not governed by Robert's Rules of Order.

3.05 Quorum and Voting

- A. Three (3) voting members of the BZA shall constitute a quorum.
- B. Voting on matters requiring a public hearing shall be by a roll call voice vote unless an alternative method is deemed appropriate by the BZA. Items of business not requiring a public hearing may be decided by a voice vote; if the outcome of a particular voice vote is unclear, the Chairman, presiding officer, or any member may request a roll call voice vote.
- C. A majority of the entire membership of the BZA must approve a petition.
- D. In accordance with Indiana Code 36-7-4-909, a member may not participate in a hearing or decision concerning a zoning matter in which he has a direct or indirect financial interest. A member shall declare his own conflict of interest. Questions as to whether such conflict exists may be determined by the Chairman of the BZA or the BZA's attorney. The BZA shall enter in its records the fact that its member has a disqualification and the name of the alternate member, if

any, who participates in the hearing or decision in place of the regular member. Members are expected to disclose any personal, non-financial interest in any matter before the BZA, and may abstain from participation and voting on such matter. Nothing in this section shall prevent a member of the BZA from presenting a petition on his or her own behalf, but members shall not appear before the BZA on a zoning matter on behalf of others. Further, BZA members shall avoid expressions of bias both on the record at BZA meetings and off the record.

- E. Except as provided in “D” above, all BZA members present shall vote on each matter for which a public hearing is held. An abstention for any other reason shall have the same effect as a negative vote.

3.06 Order of Business

- A. The order of business at a regular meeting shall be as listed below, except that the staff may, after consulting with the Chairman, alter the order of business to promote efficiency and/or convenience for the BZA members, the public, or the petitioners. Except as noted below, after the agenda is announced the order may be changed at a public meeting by the Chairman upon consenting vote of a majority of those members present.
 - 1. Call to Order
 - 2. Roll Call
 - 3. Approval of Minutes of Previous Meetings
 - 4. Approval of Legal Ads
 - 5. Introduction of Zoning Ordinance and Staff Report Materials into the Record
 - 6. Public Hearings
 - (a) New Items
 - (b) Tabled Items
 - 7. Staff/Board Items
(Note: The time of review of these items shall be at the discretion of the BZA.)
 - 8. Adjournment

(Amended by the Board of Zoning Appeals 03/20/14)
- B. A public hearing that has been legally advertised and noticed to be held at a given meeting may start later than the stated time but in no case may it start earlier than the advertised time.

3.07 Public Hearings and Notice

- A. Subject to the provisions of I.C. 36-7-4-920 et seq. and the Elkhart County Zoning Ordinance, public hearings shall be held on all Appeals of Administrative or Hearing Officer Decision, and on any Variance or Special Use Permit application. *(Amended by the Board of Zoning Appeals 03/20/14)*
- B. In addition to those required by law, the BZA may hold public hearings when it decides that hearings will be in the public interest.
- C. Notice of public hearings shall comply with Indiana Code 5-3-1.
- D. Notice by publication and additional written notice shall be made as follows:

- 1. Notice by Publication

The BZA staff shall cause to be published a notice, one time, at least ten (10) calendar days prior to the date set for the public hearing, not including the date of the hearing itself, in two newspapers of general circulation in Elkhart County. The notice shall contain the following information:

- (a) Date, time and place of the meeting.
- (b) Name of the petitioner.
- (c) Reason for the public hearing.
- (d) Name of Township.
- (e) That the proposal is on file and available for inspection at the offices of the BZA.
- (f) The general location, and common address (if applicable), of the property described in the application.
- (g) That comments regarding the proposal may be made in writing and filed at the offices of the BZA. The comments must be received prior to the public hearing in order to be considered by the BZA.
- (h) That oral comments concerning the proposal will be heard.
- (i) That the hearing may be continued from time to time as may be found necessary by the BZA.

(Amended by the Board of Zoning Appeals 03/20/14)

- 2. Mailed Notice

- (a) Definition-Interested Parties

- (i) For Appeals of Administrative or Hearing Officer Decisions and any Developmental Variances, and for matters involving the minor modification of an approved site plan, interested parties shall include all owners of property which are adjacent to the area included in the petition. *(Amended by the Board of Zoning Appeals 01/15/15)*

- (ii) For any Use Variances or Special Use Permits, interested parties shall include all owners of property within 300 feet of the boundaries of the area included in the petition.
- (iii) Interested parties shall also include all owners of property within the area included in a petition who are not petitioners.
- (iv) Notwithstanding anything in these Rules to the contrary, nothing in these Rules shall require notice to be given to owners of property which lies outside of Elkhart County, Indiana, as these persons shall not be considered “interested parties” for any purposes under these Rules. *(Amended by the Board of Zoning Appeals 03/20/14)*
- (v) For matters involving the modification or termination of a commitment, interested parties shall be the same class of persons designated as interested parties for the type of underlying matter out of which the commitment arose. *(Amended by the Board of Zoning Appeals 01/15/15)*

(b) Method of Notice

Notice shall be given by the BZA staff as follows: By first class mail, postage prepaid, to all interested parties, deposited in the United States mail at least ten (10) calendar days before the date set for the public hearing.

(c) Determination of Owners

- (i) The names and addresses of property owners to be notified shall be determined from the property ownership records of the County Auditor. Such list shall be obtained no more than one month prior to the appropriate filing deadline.
- (ii) Notice addressed to any one of two or more partners, to any one of two or more joint tenants, tenants in common, or tenants by the entireties shall be sufficient.

(d) Contents of Notice

The written notice shall include the following information.

- (i) The date, time and place of the meeting.
- (ii) The name of the petitioner and the reason for the public hearing.
- (iii) The general location, and common address (if applicable), of the property and a general description of the land as stated in the application.
- (iv) That the proposal is on file and may be examined at the offices of the BZA.
- (v) That oral comments concerning the proposal will be heard and the addressee may file written comments concerning the proposal with the offices of the BZA. The written comments must

be received prior to the public hearing in order to be considered by the BZA.

(Amended by the Board of Zoning Appeals 03/20/14)

(e) Purpose of Written Notice

Written notice is not required by state law. It serves to supplement the legally required public notice for persons in the vicinity of a proposal before the BZA. Written notice shall be considered helpful in disseminating information, but not necessary to meet legally required public notice. Having complied with the provisions of Section 3.07D.2 of these Rules, the petitioner shall be considered to have met the intent of written notice and adequate notice is deemed to have been served.

3. Supplemental Forms of Notice

- (a) The BZA may, in its discretion, authorize supplemental forms of notice deemed necessary or desirable by the BZA to improve the dissemination of information regarding its activities.
- (b) These supplemental forms of notice are not required by law and shall be considered helpful in disseminating information but not necessary to meet legally required public notice.

4. Evidence of Notice

A certificate of mailing issued by the staff shall be considered evidence that mailed notice has been given. Personal appearance at the respective hearing shall also constitute evidence of notice. Should a question concerning defect in notice be raised, it must be raised prior to the start of the hearing.

- E. If proper notice pursuant to Section 3.07 of these Rules has not been given, the BZA may continue the petition until a later date to allow time for persons not notified to prepare for the hearing. If the failure to give the proper notice is not discovered until after the hearing, the BZA may rescind its decision on the petition and may order a rehearing of the petition upon proper notice.
- F. Notwithstanding the foregoing, for matters involving the minor modification of an approved site plan, written notice of the decision shall be mailed to the applicant and interested parties within five (5) business days of the decision of the Plan Director or the BZA, as applicable. No prior notice is required. *(Amended by the Board of Zoning Appeals 01/15/15)*

3.08 Special Meetings

- A. Special meetings of the BZA may be called by the Chairman, by any two (2) members of the BZA upon written request to the Secretary, or as determined at a regular meeting.
- B. The Secretary, by and through the staff, shall send a written notice fixing the time, date and place of the meeting to all members of the BZA at least three (3) days before the meeting.
- C. Written notice of a special meeting is not required if:

1. The date, time, and place of a special meeting are fixed in a regular meeting of the BZA; and
 2. All members of the BZA are present at that regular meeting.
- D. The order of business shall be established by the BZA staff.

3.09 Cancellation and Rescheduling

- A. Whenever there is a lack of business for BZA consideration, the Chairman may dispense with a regular meeting. In such cases, the staff of the BZA shall give written notice to all members and the news media.
- B. Whenever it is determined that a quorum is not available for the start of a regular or special meeting, the Chairman of the BZA may dispense with such meeting, and all business scheduled for such meeting will be automatically continued to the next regular or special meeting. In such cases, the staff of the BZA, shall to the extent possible, give written or oral notice to the BZA members, to those having business before the BZA, and to the news media.
- C. The Chairman of the BZA also may dispense with a scheduled regular or special meeting in the event of natural disaster, weather emergency, or similar causes. However, when the Board of Commissioners of Elkhart County, Indiana, declare a County-wide weather related emergency thereby closing all County buildings, the scheduled meeting shall be cancelled automatically without any action by the Chairman. In such cases, the staff of the BZA shall, to the extent possible, give written or oral notice to the BZA members, to those having business before the BZA, and to the news media. In the event of cancellation under this Section of the Rules, the Chairman may require renotification to interested parties, with such notice to be paid for by the BZA.

3.10 Adjournment and Reconvening

- A. If at any meeting of the BZA a point is reached where there would be less than a quorum present if the meeting were to continue, or in the event that the BZA may determine by a vote of those members present to adjourn the meeting, the meeting shall be rescheduled to another time, date, or place by the BZA. At any such reconvened meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called and notified.
- B. Public notice of the date, time, and place of the reconvened meeting shall be given at least forty-eight (48) hours before the meeting. This requirement does not apply to a reconvened meeting where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the minutes thereof, and there is no change in the agenda.

Article 4. Applications

4.01 Applications

- A. Each application to the BZA for an Appeal of Administrative or Hearing Officer Decision, Variance or Special Use Permit, and each application to the Plan Director for a minor modification to an approved site plan, shall be filed with the staff on application forms adopted by the BZA. Application forms are available at the offices of the BZA and shall be accompanied by such information and exhibits as specified on such forms and/or required by applicable laws, rules and ordinances, including but not limited to all the application submission requirements of the Elkhart County Zoning Ordinance and these Rules. Staff may require additional information if the proposal warrants it. *(Amended by the Board of Zoning Appeals 01/15/15.)* Each application to the Zoning Administrator for an Administrative Adjustment, however, may be made verbally, with no form, at the time of Improvement Location Permit application. The site plan that accompanies the Improvement Location Permit application shall graphically demonstrate the requested adjustment.
- B. The current application forms adopted by the BZA are set forth as Exhibits attached hereto and incorporated herein by reference. To the extent any portion of an application form conflicts with these Rules, these Rules shall control.
- C. The staff shall review any application and determine whether or not it is sufficient for review and correct. If the application is sufficient and correct, the staff shall set a date for the application's hearing. If the application is not sufficient and/or correct, the staff may return the application to the petitioner and shall not set a date for the application's hearing. Any communication purporting to be an application not on the prescribed application forms or not containing the information required shall be considered insufficient.
- D. All application fees as required by the Commission's Uniform Schedule of Fees are due at the time of application.
- E. The deadline for filing an application is on the date established as a filing deadline on the BZA's annual Planning Calendar. Any application which is incomplete at the time of the filing deadline shall not be docketed for hearing.
- F. The BZA may limit the number of proposals to be heard at a regularly scheduled meeting.
- G. The owner(s) of property included in any petition before the BZA must consent to the filing of the application. Such consent may be evidenced by the owner's signature on said application or by signature of a duly authorized agent. In the case of property which is being purchased under a land contract or an option to buy, the signatures of both the purchasers and sellers or the duly authorized agents shall be required. Staff shall be entitled to rely upon the representations made and the documents submitted by the person filing the application as to ownership. This requirement shall not apply to an appeal filed by an "interested party"/neighboring property owner or their authorized representative.
- H. An appeal of any order, requirement, decision or determination of the Hearing Officer shall be governed by Section 2.05 of these Rules and not by this Section 4.01.

(Amended by the Board of Zoning Appeals 03/20/14)

4.02 Appeals

- A. The BZA shall hear and determine all Appeals from and review of the following:
1. Any order, requirement, decision, or determination made by an administrative official or staff member under the Zoning Ordinance.
 2. Any order requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of the Zoning Ordinance.
 3. Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of an ordinance adopted under Title 36 requiring an Improvement Location Permit or Certificate of Occupancy.
- B. The appeal shall be filed with the staff within ten (10) calendar days of the date of the action of the enforcing official or body that is being contested pursuant to Section 4.01 of these Rules. In those cases where the tenth (10th) day falls on a Saturday, a Sunday, a legal holiday, or a day on which the office of the BZA is closed, the filing deadline shall be extended to the end of the next business day.
(Amended by the Board of Zoning Appeals 01/15/15)
- C. Any communication purporting to be an appeal or petition shall be regarded as a mere notice of intention to seek relief and shall be of no force or effect until made on the application form required.
- D. The administrative official or body from whom the appeal is taken shall, upon request of the staff, transmit to it all documents, plans, papers, etc., leading to the decision being appealed.
- NOTE: When a complete appeal application has been deemed filed, proceedings on the premises affected shall be stayed unless the Director or Zoning Administrator certifies to the BZA that a stay would cause imminent peril to life or property. In that case proceedings may only be stayed by a restraining order. The BZA may issue a restraining order after application, notice to the officer or body and to the owner of the premises affected, and upon due cause shown. The official or body charged with the enforcement of the ordinance may call upon the police power of the County to give effect to that order.
- E. An appeal of any order, requirement, decision or determination of the Hearing Officer shall be governed by Section 2.05 of these Rules and not by this Section 4.02.
- F. Notwithstanding the foregoing, any decision of the Plan Director to allow or deny a minor modification to an approved site plan may be appealed to the BZA by the applicant or interested party in accordance with Sections 4.02.A. thru D above, and shall be heard by the BZA as a staff item at a public meeting.
(Amended by the Board of Zoning Appeals 01/15/15)

4.03 Variance Type

The Zoning Administrator, or a designated staff member, shall determine if an application for a Variance is a Use Variance or a Developmental Variance. Any Variance request not related to the developmental or dimensional requirements of the Zoning Ordinance (i.e. those requirements related to a measureable numerical standard such as a setback, lot size or height) must be processed as a Use Variance. *(Amended by the Board of Zoning Appeals 03/20/14)*

Article 5. Conduct of Public Hearings

5.01 Conduct

- A. Discourteous, disorderly, or contemptuous conduct shall be regarded as a breach of courtesy.
- B. The Chairman or presiding officer shall preserve order and may warn any person present that particular conduct is a breach of courtesy. If a BZA member persists in this conduct following a warning, the BZA may vote to censure the offending member. If any other person persists in this conduct following a warning, the presiding officer may order that person expelled from the meeting.
- C. Every person appearing before the BZA shall abide by the directions of the Chairman or presiding officer.
- D. The Chairman or presiding officer shall determine the admissibility of any evidence and shall have the authority to prohibit repetitious and irrelevant testimony. The BZA shall not be bound by the strict rules of evidence, but it may exclude irrelevant, immaterial, incompetent, or unduly repetitions testimony or evidence.
- E. All commentary at a public hearing shall be addressed to the BZA. Such commentary shall not be permitted between opposing parties without the consent of the BZA.
- F. BZA members may preside over public hearing items on a rotating basis and said member shall be the presiding officer for purposes of their respective public hearing items.

5.02 Presentation Order

A. Staff Report

The BZA's staff shall present a report on the proposal. The report may include letters of support and/or remonstrance or other information received by staff, site history, background information, analysis, and a staff recommendation or other information as the staff or BZA deems advisable or appropriate in their discretion. The report shall be available to the petitioner and the public five (5) calendar days before the respective scheduled meeting date at the offices of the BZA. The BZA may interject during the staff presentation with comments or questions.

B. Petitioner

1. The petitioner or the petitioner's representative must appear before the BZA on behalf of the proposal. If no one appears to represent a proposal, the BZA may, in its discretion, table it, dismiss it for lack of prosecution, take final action, and/or hear testimony from persons appearing at the hearing on the proposal.
2. The petitioner or its representative must state their name and address.
3. The petitioner shall first present the facts and arguments in support of its proposal.
4. The burden shall be on the petitioner to supply all information necessary for a clear understanding of the proposal.
5. The BZA may interject during the petitioner's presentation with comments or questions.
6. A petitioner may offer oral amendments to its application at the public hearing, at the discretion of the BZA. However, should the BZA determine that any proposed amendments are material or substantial enough to warrant further review by the staff or an additional public hearing before final action is taken, the petitioner may request to table his or her application and may submit a written amended application. A material or substantial change includes, but is not limited to, one which increases the intensity of use or substantially effects the proposal in any other way that is less restrictive.
7. Any material representations made by a petitioner or the petitioner's representative at the public hearing concerning its proposal shall be a binding commitment for that proposal.

C. Public Comments

1. Following the petitioner's presentation, comments from the public shall be taken.
2. Any person may appear in person or by representative to participate in a public hearing discussion of an item before the BZA.
3. Any person wishing to speak must state their name and address.
4. The BZA may query any person speaking to clarify that person's position.
5. Remonstrator's may present evidence in opposition to the application at the discretion of the BZA. Any such evidence or information should include sufficient copies for the BZA, the staff, and the petitioner. The staff may assist the remonstrator's in presenting sufficient copies.
6. Any petition in support of or in opposition to any application or matter being considered by the BZA shall be in the form prescribed by the BZA or substantially similar thereto, and shall include the signers' names and addresses.
7. Any person speaking shall use their best efforts to present new evidence and not be repetitious regarding evidence already presented to the BZA.

D. Rebuttal

The petitioner shall have time for rebuttal and to answer questions raised.

1. The petitioner shall avoid presenting new areas of evidence except as required for rebuttal and to answer questions raised by the public, the BZA or the staff.
2. The BZA may interject during the petitioner's rebuttal with questions or comments.

E. Public Portion of the Hearing Closed

1. Once all testimony is taken, the public portion of the hearing may be closed by the Chairman or presiding officer unless otherwise directed by a majority of the BZA present.
2. No further testimony will be taken once the public portion of the hearing is closed except that the BZA may address questions or comments to the petitioner or other persons if, in the BZA's opinion, the information is necessary to make an informed decision.
3. The BZA may discuss the proposal with staff, its legal counsel, or among its members for any length of time deemed necessary.
4. After the public hearing is closed and the BZA discussion is concluded, the Chairman or presiding officer may make or call for a motion on the item before the BZA.

F. Discussion and Voting

1. Any member of the BZA may make a motion for disposition of the case, which must then be seconded by another member. Any conditions to the approval of an application must be so stated in the motion. Further discussion may be called for by the BZA
2. Once members have been asked to vote, no further discussion, tabling or amending of the petition will be allowed, and a vote may be taken only on the application as presented or as modified by the petitioner.
3. Voting shall be in accordance with the provisions of these Rules. At the conclusion of the vote, the recording Secretary shall record the vote.

G. Keeping of Evidence

Any evidence presented to the BZA at the public hearing, or an accurate copy thereof, shall be kept by the BZA for its records for at least thirty (30) calendar days after the hearing date or for as long as the BZA or its staff may otherwise deem advisable.

H. Ex-Parte Communication

A person may not communicate with any member of the BZA before the hearing with intent to influence the member's action on a matter pending before the BZA. However, not less than five (5) days before the hearing, the staff may file a staff report setting forth any facts or recommendations relating to the matters; these staff report materials may include the petitioner's application materials.

5.03 Time Limits

The BZA, in its discretion, shall have the authority, during any hearing, to limit the length of testimony by each speaker or request that repetitious statements by different speakers be avoided, as deemed appropriate to a fair public hearing.

5.04 Tabling

A. The hearing of any case may be tabled subject to the following provisions:

1. Petitioner or Interested Party

The petitioner or an interested party as defined by these Rules may request and be granted a tabling if the BZA deems it necessary to make an informed decision. The petitioner may also request an administrative tabling in accordance with these Rules.

2. The BZA

The BZA may, at its own discretion, table any agenda item from one meeting to another upon the affirmative vote of a majority of the members present.

3. Staff

Staff may recommend tabling of any item, subject to BZA approval.

B. Procedure for Petitioner-Initiated Tabling Request

1. Initial Petitioner-Initiated Tabling Request

(a) Administrative Tabling

- (i) A request for an administrative tabling shall be filed with the Zoning Administrator or staff prior to the scheduled hearing.
- (ii) A request for administrative tabling shall be made in writing and shall describe the need for the tabling.
- (iii) The Zoning Administrator or staff shall automatically grant the request if the staff has not yet sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07D.1 of these Rules.
- (iv) Once the staff has sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07D.1 of these Rules, the Zoning Administrator or staff shall not grant the administrative tabling and the request shall thereafter only be considered by the BZA at the public hearing.

(b) Requesting a Tabling at a Public Hearing

- (i) A petitioner may request a tabling directly from the BZA at a public hearing. The BZA may grant the request at its discretion. In order to exercise this option, however, he or she must request the tabling prior to the start of the hearing of that agenda item, by informing the Chairman or presiding officer.
- (ii) Unless expressly authorized otherwise by the BZA, the tabling shall be until the next regularly scheduled meeting of the BZA.
- (iii) The BZA may accept public comment for the record even if a tabling has been requested and even when the petitioner or its representative is not present.

2. Subsequent Petitioner-Initiated Tabling Requests

Any tabling request after the initial request shall be made by the petitioner directly to the BZA at a public hearing. The BZA may grant the request at its discretion.

3. Maximum Number and Total Time of Petitioner-Initiated Tablings

- (a) In no case shall a particular agenda item be tabled by a petitioner for more than ninety (90) consecutive calendar days total time.
- (b) The BZA may agree to petitioner-initiated tabling for more than the total time permitted if the BZA finds that unusual circumstances warrant it.

C. Dismissal of Tabled Items

- 1. Any agenda item that has been previously tabled and is unable to proceed to hearing may be dismissed by the BZA in its discretion.
- 2. A dismissal by the BZA under this Section C of these Rules does not constitute a denial of the agenda item.
- 3. Any item dismissed under this Section C of these Rules shall be eligible for re-hearing as a new case with a new case number only after a new application is submitted and all applicable fees have been paid.

D. Withdrawal or Denial of Tabled Items

Nothing in these Rules prevents the BZA from accepting a withdrawal of, or denying, an agenda item subject to Section 5.04, in lieu of a tabling if the BZA deems it appropriate under the circumstances.

E. Interested Party Tabling Request

Any tabling request made by an interested party shall be made directly to the BZA at a public hearing. The interested party requesting such continuance shall be required to show good and sufficient cause for such continuance, and it shall be within the discretion of the BZA to grant or deny such request.

F. Re-notification

- 1. For any tabling, the BZA may require re-notification of property owners within the written notification boundary established under these Rules if doing so serves the public interest.
- 2. Any tabling granted beyond the next regular BZA meeting shall automatically require re-notification of property owners within the written notification boundary established under these Rules.
- 3. Re-notification costs shall be paid for by the petitioner, interested party or the BZA, as deemed appropriate by the BZA in its discretion.

Article 6. Final Disposition of Cases

6.01 Action by the BZA

Except as otherwise allowed by these Rules, action by the BZA shall follow the following guidelines:

- A. **Special Uses**
Final action by the BZA shall be in the form of a decision either approving or denying the petition. The petition may be voted on as submitted or as modified by the petitioner. Modifications to the petition as submitted shall be made part of the motion. The BZA may impose reasonable conditions as part of its approval, including but not limited to requiring or allowing the owner of the parcel of real property involved in the petition to make a written commitment under Section 6.06B of these Rules to the BZA concerning the use or development of the parcel.
- B. **Variances of Use**
Final action by the BZA shall be in the form of a decision either approving or denying the petition. The petition may be voted on as submitted or as modified by the petitioner. Modifications to the proposal as submitted shall be made part of the motion. The BZA may impose reasonable conditions as part of its approval; including but not limited to requiring or allowing the owner of the parcel of real property involved in the petition to make a written commitment under Section 6.06B of these Rules to the BZA concerning the use or development of the parcel.
- C. **Variances from the Development Standards**
Final action by the BZA shall be in the form of a decision either approving or denying the petition. The petition may be voted on as submitted or as modified by the petitioner. Modifications to the proposal as submitted shall be made part of the motion. The BZA may impose reasonable conditions as part of its approval, including but not limited to requiring or allowing the owner of the parcel of real property involved in the petition to make a written commitment under Section 6.06B of these Rules to the BZA concerning the use or development of the parcel.
- D. **Appeals**
Final action by the BZA shall be in the form of a decision either reversing or modifying the requirement, order, decision, or determination appealed from or affirming the requirement, order, decision, or determination and denying the appeal. For this purpose the BZA has all the powers of the official, officer, board, or body from which the appeal is taken.
- E. **Staff/Board Items**
The BZA shall take such action as is necessary or appropriate under the circumstances.
- F. **Adverse Decisions**
No petition which has been denied by the BZA shall again be placed on the docket for hearing within a period of twelve (12) months from the date of such respective decision unless the Zoning Administrator or the BZA, through an appeal, finds that there is a substantial change in the petition or circumstances effecting the petition, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid.
- G. **Indecisive Vote**
In any event where not all members of the BZA are present and there is a tie or indecisive vote, and the matter is continued or tabled to a subsequent meeting, the member(s) not

present at the original hearing(s) on the matter may read the minutes and review the evidence presented at that hearing(s) and that member(s) shall be entitled to participate and vote on the matter at the subsequent hearing(s).

6.02 Findings of Fact

Where appropriate or as required by statute or ordinance, the BZA shall set forth its decisions, determinations, and conditions of approval in written findings of fact.

6.03 Dismissal

- A. The BZA may dismiss a case for lack of prosecution or lack of jurisdiction when:
 - 1. A petitioner or representative thereof fails to appear at any meeting;
 - 2. The BZA, for any reason, is unable for two consecutive meetings to obtain from the petitioner or representative thereof information needed to determine the compliance of a petition with applicable ordinances; or
 - 3. The application has been filed improperly.
- B. Nothing in this section shall be interpreted to mean that the BZA is required to dismiss a petition if the BZA members determine that additional continuance be warranted.
- C. A case so dismissed shall not be heard again until twelve (12) months after the date of the dismissal decision by the BZA unless the Zoning Administrator or the BZA, through an appeal, finds that there is a substantial change in the petition or circumstances effecting the petition, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid.

6.04 Withdrawal

- A. A petitioner may withdraw a case without prejudice by filing a written request with the Zoning Administrator or staff before the staff has sent the required legal notice for the application to the newspapers(s) for publication pursuant to Section 3.07D.1 of these Rules. A withdrawal so made shall be removed from the BZA agenda by the staff and there shall be no refund of the application fee. A petition so withdrawn may be refiled at any time and the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid.
- B. After the staff has sent the required legal notice for the application to the newspaper(s) for publication pursuant to Section 3.07D.1 of these Rules, a petitioner may appear at a hearing and request the case be withdrawn. The request may be granted or denied by the BZA. Where the request is granted by the BZA, the proposal shall not be heard again until six (6) months after the date of the action by the BZA unless the Zoning Administrator or the BZA, through an appeal, finds that there is a substantial change in the petition or circumstances effecting the petition, in which case the matter may again be placed on the docket for hearing at a subsequent meeting after a new application has been filed and new application fees have been paid.

- C. A petitioner may not request to withdraw a case after a vote has been ordered by the Chairman or presiding officer of the BZA.

6.05 Amendment

- A. No petition can be amended after the filing deadline in a manner which increases the intensity of use or substantially effects the proposal in any other way that is less restrictive. Any such amendment request shall be treated as a new application and the item as amended shall be refiled, readvertised, docketed for hearing at a subsequent meeting, and notice given to interested parties. If notice in accordance with these Rules already has been given, the original item shall be deemed automatically withdrawn and the item as amended shall be docketed for hearing at a subsequent meeting, readvertised and notice again given to interested parties. The petitioner shall be required to pay the cost of such readvertisement and renotification.
- B. It shall be within the discretion of the BZA at the scheduled hearing to approve a petitioner's request to amend the petition in any manner which decreases the intensity of use or substantially effects the proposal in any other way that is more restrictive. Any interested parties may be heard on the subject of such amendment. The BZA may require such amended petition to be continued and may require readvertising and renotification in the interest of providing a fair and adequate hearing; the petitioner shall be required to pay the cost of any such readvertisement and renotification.

6.06 Conditions and Commitments

- A. If a variance from the developmental standards of the Zoning Ordinance is authorized by the BZA, such exception is void unless an Improvement Location Permit is taken out within one hundred eighty (180) calendar days from the date of the grant and construction work completed within one (1) year from the date of the issuance of the building permit (where required), unless specific permission for additional time is granted by the BZA. Exceptions to the one hundred eighty (180) calendar day voiding are as follows:
 - 1. For real estate requiring the filing of a subdivision with the Commission, the Developmental Variance(s) shall become void unless the subdivision has been filed with the Commission within one hundred eighty (180) calendar days from the date of the grant and secondary approval given within three hundred sixty (360) calendar days from the date of the grant.
 - 2. For real estate requiring the filing of a deed with the Auditor to combine two or more parcels of real estate, the Developmental Variance(s) shall become void unless the deed combining the parcels of real estate has been filed with the Auditor within one hundred eighty (180) calendar days from the date of the grant.

(Amended by the Board of Zoning Appeals 03/20/14)

(Amended by the Board of Zoning Appeals 11/17/16)

- B. The BZA may require or allow the owner of a parcel of real property subject to a Special Use Permit or Variance petition before the BZA to make a written commitment concerning the use or development of that real estate as permitted by Indiana Code 36-7-4-921 and Indiana Code 36-7-4-1015. This commitment document may be created by the BZA attorney/staff or the owner of the parcel of real property and shall include the specific commitments set forth by the BZA

and/or the owner in addition to the standard terms in the commitment form adopted by the BZA; the resulting commitment document shall be in substantially the form set forth in Exhibit H of these Rules and incorporated herein by reference. The completed commitment form shall be signed by the owner in front of a notary public, recorded by the owner in the Office of the Elkhart County Recorder and then returned to the BZA staff within sixty (60) days after BZA action on the petition for placement in the petition file. The commitment shall be effective immediately upon execution by the owner but the BZA approval shall not be effective until the recorded commitment form has been returned to the BZA staff. The owner shall give notice of the commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the parcel of real property. The owner and any subsequent owner and/or any other person or persons acquiring an interest in any portion of the parcel of real property shall be bound by the terms of the commitment. If any person fails to comply with the commitment, that person and the respective parcel of real property shall be considered to be violation of the Elkhart County Zoning Ordinance and the commitment itself, and the commitment shall be enforced in accordance with the provisions of the Elkhart County Zoning Ordinance and/or I.C. 36-7-4-1015. The BZA and/or the Elkhart County Zoning Administrator are authorized to enforce the terms of the commitment; also, any property owner adjacent to the parcel of real property or any specifically affected person listed in the commitment are entitled to enforce the terms of the commitment separately and independently from the BZA and/or Elkhart County Zoning Administrator. A commitment may contain terms providing for its own expiration or terms providing for automatic termination. A commitment does not automatically terminate upon: (1) a legislative body's adoption of a zoning map amendment (a.k.a. rezoning) covering all or any portion of the parcel of real property, or (2) a change in the land use on the parcel of real property to which the commitment relates. However, an owner may request to voluntarily terminate a special use or variance and any related commitment in their entirety by filing a written request with the BZA; the BZA shall consider the request at a public meeting without a public hearing or notice; if the BZA grants the request and terminates the special use or variance and any related commitment in their entirety, then the Zoning Administrator shall execute and record a Termination of Commitment substantially in the form set forth in Exhibit K of these Rules and incorporated herein by reference. Likewise, if a Commitment has been recorded and a BZA decision to grant the underlying special use or variance is subsequently overturned by a final court decision, then the Zoning Administrator shall execute and record a Termination of Commitment substantially in the form set forth in Exhibit L of these Rules and incorporated herein by reference. Except as otherwise stated above or in the commitment, any commitment may be modified or terminated only by a decision of the BZA made at a public hearing after notice is given in accordance with BZA rules. Requiring or allowing a commitment to be made does not obligate the BZA to adopt, approve or favorably recommend the petition to which the commitment relates.

(Amended by the Board of Zoning Appeals 10/20/11).

(Amended by the Board of Zoning Appeals 7/20/17).

Article 7. Article 7 Miscellaneous

7.01 Amendments to These Rules

- A. Amendments, supplements or changes to these Rules or any portion thereof may be made by the BZA at any regular or special meeting upon the motion of any member of the BZA, duly seconded and receiving an affirmative vote of the majority of the total membership of the BZA.
- B. The temporary suspension of any Rule or any portion thereof may be ordered at any meeting by an affirmative vote of the total membership of the BZA present at the meeting, except where otherwise controlled by state statute or the Elkhart County Zoning Ordinance. No suspension shall continue beyond the adjournment of the meeting at which the motion to suspend was passed.

7.02 Schedule of Fees

- A. The Commission has, in accordance with the requirements of Indiana Code 36-7-4-411 and Indiana Code 36-7-4-704, established a uniform schedule of fees ("Uniform Schedule of Fees"). A copy of the Uniform Schedule of Fees is available at the Elkhart County Planning and Development Department.
- B. In no case shall the BZA take action on any application for which applicable fees have not been paid in full. No part of any fee paid pursuant to these Rules shall be returnable to the petitioner without approval of the Director.
- C. Nothing herein shall be construed to require a fee for actions initiated in the public interest by the BZA.

7.03 Severability

If a court of competent jurisdiction finds any provisions of these Rules to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of these Rules shall not affect the legality, validity or enforceability of any other provision of these Rules.

- 7.04** To the extent these Rules conflict with provisions of the Elkhart County Zoning Ordinance, the provisions of the Elkhart County Zoning Ordinance shall control. *(Amended by the Board of Zoning Appeals 01/15/15)*

The foregoing Rules of Procedure of the Elkhart County Advisory Board of Zoning Appeals were approved and adopted by the affirmative vote of said BZA on the 15th day of January, 2015, and shall enter into effect immediately upon adoption by said BZA.

ECABZA

Attest:

By: _____

Randy Hesser, its Chairman

Tony Campanello, its Secretary

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EXHIBIT TABLE OF CONTENTS

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(Amended by the Board of Zoning Appeals 6/18/20)
- B. Use Variance Application
(Amended by the Board of Zoning Appeals 6/18/20)
- C. Mobile Home Special Use Permit Application
(Amended by the Board of Zoning Appeals 6/18/20)
- D. Special Use Permit Application
(Amended by the Board of Zoning Appeals 6/18/20)
- E. Appeal of Administrative or Hearing Officer Decision Application
(Amended by the Board of Zoning Appeals 6/18/20)
- F. Elkhart County Advisory BZA Certification of Residency
- G. Board of Zoning Appeals Result Letter
- H. Board of Zoning Appeals Commitment Form
- I. Hearing Officer Result Letter
- J. Mobile Home Result Letter
- K. Termination of Commitment (BZA Action)
- L. Termination of Commitment (Court Action)

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Application Information for

☒ **Developmental Variance** ☐ **Special Use for a Mobile Home** ☐ **Special Use** ☐ **Use Variance**

When you have to apply by

3:00 p.m. on Monday, _____ , for the
Hearing Officer hearing on Wednesday, _____ , or the
Board of Zoning Appeals hearing on Thursday, _____ .

What you should do first

- If there will be a new septic system on the property, find out from the Health Department if there's enough space for it.
- If there will be a new driveway that connects to a county road or a change to an existing driveway that connects to a county road, find out from the Highway Department if you need a driveway permit.

What you need when you come back (an incomplete application will be refused)

- ☐ 1) Application fee (nonrefundable), \$ _____ .
- ☐ 2) Application page, signed.
- ☐ 3) Questionnaire(s).
- ☐ 4) Site plan.
- ☐ 5) Recorded deeds for all parcels. (You can get these from the Recorder's Office, 117 N. 2nd Street, Goshen, Indiana 46526.)
- ☐ 6) An authorizing letter from the current property owner—only if the application signer is a buyer, land contract purchaser, or lessee.
- ☐ 7) The agreement—only if there's a buyer, land contract purchaser, or lessee.
- ☐ 8) The recorded access easement—only if your application includes a variance for a residence on property with no road frontage and there's an existing recorded easement.
- ☐ 9) An hour of time.

What happens after you apply

- We come take pictures of the property.
- We make a report and recommendation to the Hearing Officer or Board of Zoning Appeals.
- We set your hearing time.
- We send notices that show the hearing date and time to you, anyone else on the application page, and owners of nearby property. The notice comes a week before the hearing, and the report and recommendation comes with it.

What happens during the hearing

- At your time, the staff says the report and recommendation.
- You say in your own words what you want to do.
- The Hearing Officer or Board of Zoning Appeals might ask questions.
- Anyone for or against speaks.
- If there's anyone against, you get to respond.
- If it's the Board of Zoning Appeals, the board closes the public hearing and discusses your application.
- The Hearing Officer or Board of Zoning Appeals makes a decision. It can be approval, approval with conditions, denial, or postponement to another date.

What happens after the hearing

If it's a Hearing Officer approval (Wednesday),

- We send a result letter to you and anyone else on the application page for your records.
- Allow the **five-business-day appeal period** to pass.
- Meet conditions of approval (if any).
- Then you can start a building permit.

If it's a Board of Zoning Appeals approval (Thursday),

- We send a result letter to you and anyone else on the application page for your records.
- We send a commitment to the owner (or the buyer). The commitment comes about three weeks after the hearing, and instructions come with it.
- Return the notarized, recorded commitment to us.
- Meet other conditions of approval (if any).
- Then you can start a building permit (if you're building something).

Application

Site address: _____

Parcel number(s): _____

Current property owner

Name: _____

Address: _____

Phone: _____ Email: _____

Other party ☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Developmental Variance — Questionnaire

Name: _____

1) Tell us what you want to do. _____

2) Tell us why you can't change what you're doing so you don't need a variance. _____

3) Tell us why the variance won't hurt your neighbors or the community. _____

4) Does the property need well and septic? Well: ☐ Y ☐ N Septic: ☐ Y ☐ N
Does the property need a new septic system? ☐ Y ☐ N
If yes, did the Health Department say there's enough space for it? ☐ Y ☐ N

5) Does the application include variances to allow for buildings or additions? ☐ Y ☐ N If yes, fill out below.
Building or addition 1 Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 2 Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Size and height to the peak: _____
Tell us what you'll use it for. _____

6) Does the application include a variance for a residence on property with no road frontage? ☐ Y ☐ N
If yes, fill out below.
Is the easement existing? ☐ Y ☐ N If the easement is existing, is it recorded? ☐ Y ☐ N
Tell us who owns (will own) the land under the easement. _____
Tell us how many parcels will use the easement. _____

7) Does the application include variances for signs? ☐ Y ☐ N If yes, fill out below.
Sign 1 Dimensions (length and width): _____
Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N
Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N
Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N
Sign 2 Dimensions (length and width): _____
Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N
Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N
Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N
Sign 3 Dimensions (length and width): _____
Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N
Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N
Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

8) Does the application include a variance for parking spaces? ☐ Y ☐ N
If yes, tell us how many total there will be. _____

9) Tell us anything else you want us to know. _____

Site Plan Information

No aerial photos.

No paper larger than 8½ × 14.

Use labels as shown in the sample.

If you draw to scale, show it.

Show the following:

- ☐ 1) North arrow.
- ☐ 2) Property lines and lengths.
- ☐ 3) Adjacent right-of-ways.
- ☐ 4) Existing and proposed buildings and additions, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

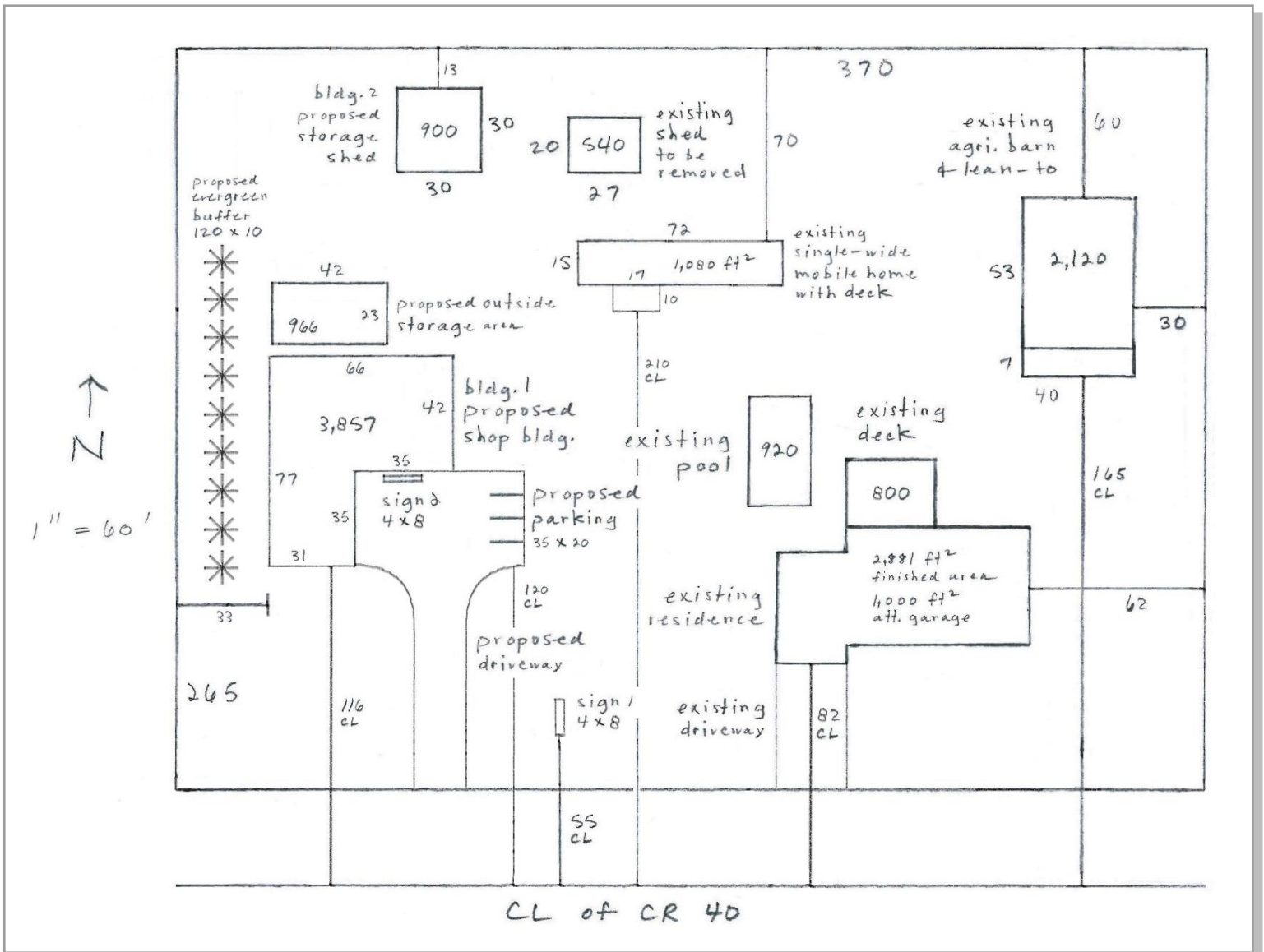
Note: If you give building and addition details in the building-and-addition part of the questionnaire (if applicable), number the buildings and additions on the site plan to match.

- ☐ 5) Existing and proposed driveways.
- ☐ 6) Existing and proposed signs, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

Note: If you give sign details in the sign part of the questionnaire (if applicable), number the signs on the site plan to match.

- ☐ 7) Existing and proposed parking areas and their setbacks from property lines and centerlines of adjacent right-of-ways.
- ☐ 8) Existing and proposed outside storage areas and their sizes.
- ☐ 9) Existing and proposed buffering with sizes (fences, trees, shrubs, mounds).
- ☐ 10) Existing and proposed access easements with sizes.
- ☐ 11) Buildings, signs, or buffering that will be removed.

Sample site plan



Application Information for

☐ Developmental Variance ☐ Special Use for a Mobile Home ☐ Special Use ☒ Use Variance

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- If there's anyone against, you get to respond.
- If it's the Board of Zoning Appeals, the board closes the public hearing and discusses your application.
- The Hearing Officer or Board of Zoning Appeals makes a decision. It can be approval, approval with conditions, denial, or postponement to another date.

What happens after the hearing

If it's a Hearing Officer approval (Wednesday),

- We send a result letter to you and anyone else on the application page for your records.
- Allow the **five-business-day appeal period** to pass.
- Meet conditions of approval (if any).
- Then you can start a building permit.

If it's a Board of Zoning Appeals approval (Thursday),

- We send a result letter to you and anyone else on the application page for your records.
- We send a commitment to the owner (or the buyer). The commitment comes about three weeks after the hearing, and instructions come with it.
- Return the notarized, recorded commitment to us.
- Meet other conditions of approval (if any).
- Then you can start a building permit (if you're building something).

Application

Site address: _____

Parcel number(s): _____

Current property owner

Name: _____

Address: _____

Phone: _____ Email: _____

Other party ☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Use Variance — Questionnaire

Name: _____

1) Tell us what you want to do. _____

2) Tell us why your case is different from other cases in the county so that a variance should be allowed. _____

3) Tell us why the variance won't hurt your neighbors or the community. _____

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☐ N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☐ N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☐ N Septic: ☐ Y ☐ N
Does the property need a new septic system? ☐ Y ☐ N
If yes, did the Health Department say there's enough space for it? ☐ Y ☐ N

7) Does what you want to do include buildings or additions? ☐ Y ☐ N If yes, fill out below.
Building or addition 1 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☐ N
If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

9) Does this application include an accessory structure without a residence at this time? ☐ Y ☐ N
If yes, are there plans for a residence on this property? ☐ Y ☐ N If yes, fill out below.
Tell us when it will be built. _____
Tell us the approximate size. _____

10) Does this application include animals? ☐ Y ☐ N
If yes, tell us what kind and the maximum number of each. _____

Use Variance — Questionnaire

11) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☐ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: _____ Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? _____

What will be the days and hours of operation on this property? _____

How many parking spaces do you have now? _____

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? ☐ Y ☐ N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? ☐ Y ☐ N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day? _____

Will there be pickups or deliveries on this property? ☐ Y ☐ N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? ☐ Y ☐ N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

12) Tell us anything else you want us to know. _____

B-4

Site Plan Information

No aerial photos.

No paper larger than 8½ × 14.

Use labels as shown in the sample.

If you draw to scale, show it.

Show the following:

- ☐ 1) North arrow.
- ☐ 2) Property lines and lengths.
- ☐ 3) Adjacent right-of-ways.
- ☐ 4) Existing and proposed buildings and additions, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

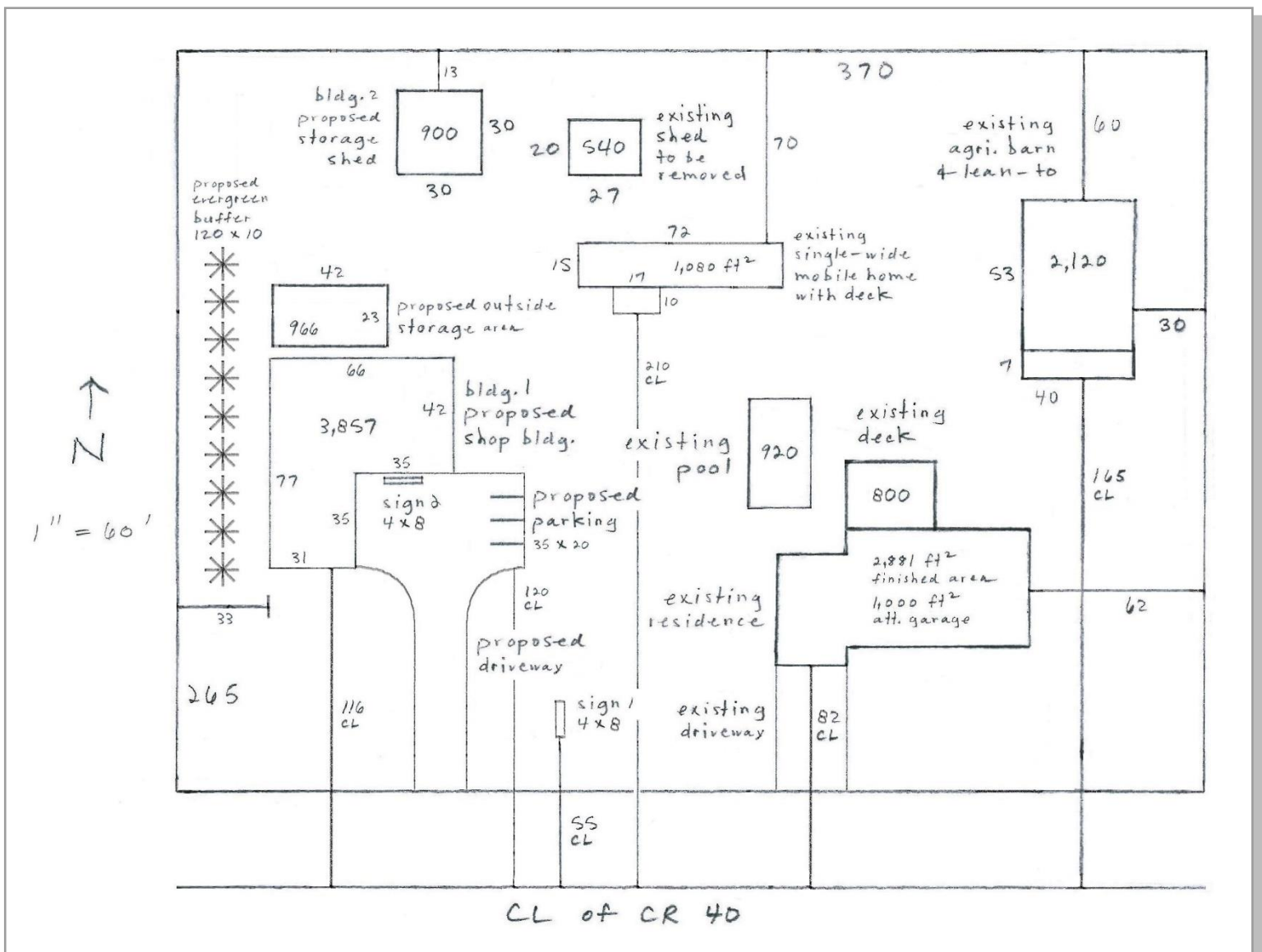
Note: If you give building and addition details in the building-and-addition part of the questionnaire (if applicable), number the buildings and additions on the site plan to match.

- ☐ 5) Existing and proposed driveways.
- ☐ 6) Existing and proposed signs, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

Note: If you give sign details in the sign part of the questionnaire (if applicable), number the signs on the site plan to match.

- ☐ 7) Existing and proposed parking areas and their setbacks from property lines and centerlines of adjacent right-of-ways.
- ☐ 8) Existing and proposed outside storage areas and their sizes.
- ☐ 9) Existing and proposed buffering with sizes (fences, trees, shrubs, mounds).
- ☐ 10) Existing and proposed access easements with sizes.
- ☐ 11) Buildings, signs, or buffering that will be removed.

Sample site plan



Application Information for

☐ Developmental Variance ☒ Special Use for a Mobile Home ☐ Special Use ☐ Use Variance

When you have to apply by

3:00 p.m. on Monday, _____, for the
Hearing Officer hearing on Wednesday, _____, or the
Board of Zoning Appeals hearing on Thursday, _____.

What you should do first

- If there will be a new septic system on the property, find out from the Health Department if there's enough space for it.
- If there will be a new driveway that connects to a county road or a change to an existing driveway that connects to a county road, find out from the Highway Department if you need a driveway permit.

What you need when you come back (an incomplete application will be refused)

- ☐ 1) Application fee (nonrefundable), \$ _____.
- ☐ 2) Application page, signed.
- ☐ 3) Questionnaire(s).
- ☐ 4) Site plan.
- ☐ 5) Recorded deeds for all parcels. (You can get these from the Recorder's Office, 117 N. 2nd Street, Goshen, Indiana 46526.)
- ☐ 6) An authorizing letter from the current property owner—only if the application signer is a buyer, land contract purchaser, or lessee.
- ☐ 7) The agreement—only if there's a buyer, land contract purchaser, or lessee.
- ☐ 8) The recorded access easement—only if your application includes a variance for a residence on property with no road frontage and there's an existing recorded easement.
- ☐ 9) An hour of time.

What happens after you apply

- We come take pictures of the property.
- We make a report and recommendation to the Hearing Officer or Board of Zoning Appeals.
- We set your hearing time.
- We send notices that show the hearing date and time to you, anyone else on the application page, and owners of nearby property. The notice comes a week before the hearing, and the report and recommendation comes with it.

What happens during the hearing

- At your time, the staff says the report and recommendation.
- You say in your own words what you want to do.
- The Hearing Officer or Board of Zoning Appeals might ask questions.
- Anyone for or against speaks.
- If there's anyone against, you get to respond.
- If it's the Board of Zoning Appeals, the board closes the public hearing and discusses your application.
- The Hearing Officer or Board of Zoning Appeals makes a decision. It can be approval, approval with conditions, denial, or postponement to another date.

What happens after the hearing

If it's a Hearing Officer approval (Wednesday),

- We send a result letter to you and anyone else on the application page for your records.
- Allow the **five-business-day appeal period** to pass.
- Meet conditions of approval (if any).
- Then you can start a building permit.

If it's a Board of Zoning Appeals approval (Thursday),

- We send a result letter to you and anyone else on the application page for your records.
- We send a commitment to the owner (or the buyer). The commitment comes about three weeks after the hearing, and instructions come with it.
- Return the notarized, recorded commitment to us.
- Meet other conditions of approval (if any).
- Then you can start a building permit (if you're building something).

Application

Site address: _____

Parcel number(s): _____

Current property owner

Name: _____

Address: _____

Phone: _____ Email: _____

Other party ☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Special Use for a Mobile Home — Questionnaire

Name: _____

1) Is there an existing main residence already on the property? ☐ Y ☐ N

If yes, tell us who will live in the existing main residence. _____

2) Tell us who will live in the mobile home. _____

3) Is the mobile home needed because of a hardship like poor health, age, or an emergency? ☐ Y ☐ N

If yes, tell us about it. _____

4) Tell us why the mobile home won't hurt your neighbors or the community. _____

5) Does the mobile home need its own well and septic? Well: ☐ Y ☐ N Septic: ☐ Y ☐ N

Does the mobile home need a new septic system? ☐ Y ☐ N

If yes, did the Health Department say there's enough space for it? ☐ Y ☐ N

6) Tell us the size of the mobile home. _____

7) Tell us the year of the mobile home. _____

8) Tell us anything else you want us to know. _____

Site Plan Information

No aerial photos.

No paper larger than 8½ × 14.

Use labels as shown in the sample.

If you draw to scale, show it.

Show the following:

- ☐ 1) North arrow.
- ☐ 2) Property lines and lengths.
- ☐ 3) Adjacent right-of-ways.
- ☐ 4) Existing and proposed buildings and additions, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

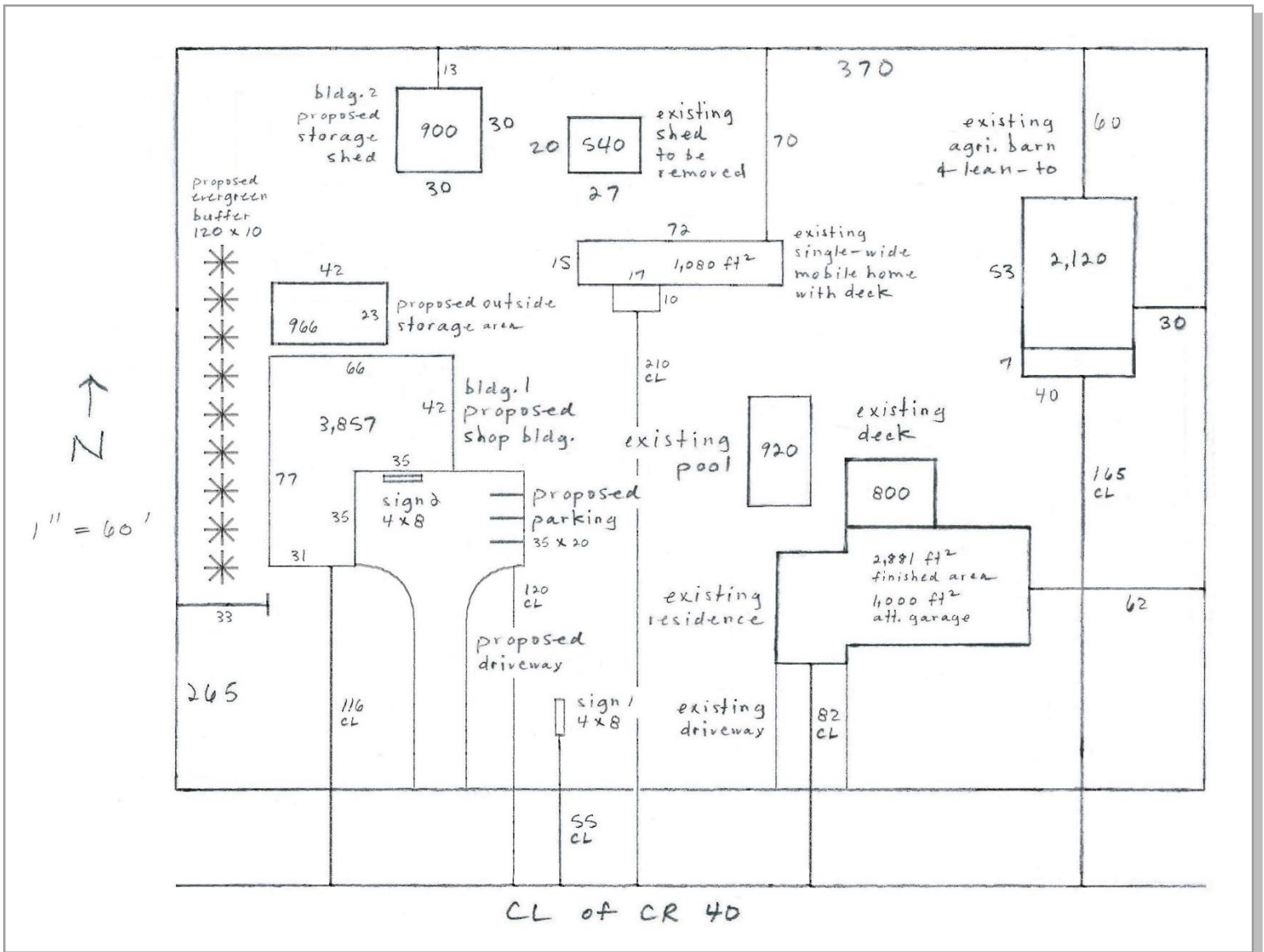
Note: If you give building and addition details in the building-and-addition part of the questionnaire (if applicable), number the buildings and additions on the site plan to match.

- ☐ 5) Existing and proposed driveways.
- ☐ 6) Existing and proposed signs, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

Note: If you give sign details in the sign part of the questionnaire (if applicable), number the signs on the site plan to match.

- ☐ 7) Existing and proposed parking areas and their setbacks from property lines and centerlines of adjacent right-of-ways.
- ☐ 8) Existing and proposed outside storage areas and their sizes.
- ☐ 9) Existing and proposed buffering with sizes (fences, trees, shrubs, mounds).
- ☐ 10) Existing and proposed access easements with sizes.
- ☐ 11) Buildings, signs, or buffering that will be removed.

Sample site plan



Application Information for

☐ Developmental Variance ☐ Special Use for a Mobile Home ☒ Special Use ☐ Use Variance

When you have to apply by

3:00 p.m. on Monday, _____, for the
Hearing Officer hearing on Wednesday, _____, or the
Board of Zoning Appeals hearing on Thursday, _____.

What you should do first

- If there will be a new septic system on the property, find out from the Health Department if there's enough space for it.
- If there will be a new driveway that connects to a county road or a change to an existing driveway that connects to a county road, find out from the Highway Department if you need a driveway permit.

What you need when you come back (an incomplete application will be refused)

- ☐ 1) Application fee (nonrefundable), \$ _____.
- ☐ 2) Application page, signed.
- ☐ 3) Questionnaire(s).
- ☐ 4) Site plan.
- ☐ 5) Recorded deeds for all parcels. (You can get these from the Recorder's Office, 117 N. 2nd Street, Goshen, Indiana 46526.)
- ☐ 6) An authorizing letter from the current property owner—only if the application signer is a buyer, land contract purchaser, or lessee.
- ☐ 7) The agreement—only if there's a buyer, land contract purchaser, or lessee.
- ☐ 8) The recorded access easement—only if your application includes a variance for a residence on property with no road frontage and there's an existing recorded easement.
- ☐ 9) An hour of time.

What happens after you apply

- We come take pictures of the property.
- We make a report and recommendation to the Hearing Officer or Board of Zoning Appeals.
- We set your hearing time.
- We send notices that show the hearing date and time to you, anyone else on the application page, and owners of nearby property. The notice comes a week before the hearing, and the report and recommendation comes with it.

What happens during the hearing

- At your time, the staff says the report and recommendation.
- You say in your own words what you want to do.
- The Hearing Officer or Board of Zoning Appeals might ask questions.
- Anyone for or against speaks.
- If there's anyone against, you get to respond.
- If it's the Board of Zoning Appeals, the board closes the public hearing and discusses your application.
- The Hearing Officer or Board of Zoning Appeals makes a decision. It can be approval, approval with conditions, denial, or postponement to another date.

What happens after the hearing

If it's a Hearing Officer approval (Wednesday),

- We send a result letter to you and anyone else on the application page for your records.
- Allow the **five-business-day appeal period** to pass.
- Meet conditions of approval (if any).
- Then you can start a building permit.

If it's a Board of Zoning Appeals approval (Thursday),

- We send a result letter to you and anyone else on the application page for your records.
- We send a commitment to the owner (or the buyer). The commitment comes about three weeks after the hearing, and instructions come with it.
- Return the notarized, recorded commitment to us.
- Meet other conditions of approval (if any).
- Then you can start a building permit (if you're building something).

Application

Site address: _____

Parcel number(s): _____

Current property owner

Name: _____

Address: _____

Phone: _____ Email: _____

Other party ☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Special Use — Questionnaire

Name: _____

1) Tell us what you want to do. _____

2) Tell us why this activity won't hurt your neighbors or the community. _____

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☐ N
If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☐ N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☐ N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☐ N Septic: ☐ Y ☐ N
Does the property need a new septic system? ☐ Y ☐ N
If yes, did the Health Department say there's enough space for it? ☐ Y ☐ N

7) Will the activity use buildings or additions? ☐ Y ☐ N If yes, fill out below.
Building or addition 1 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☐ N
If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☐ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: _____ Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? _____

What will be the days and hours of operation on this property? _____

How many parking spaces do you have now? _____

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? ☐ Y ☐ N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? ☐ Y ☐ N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day? _____

Will there be pickups or deliveries on this property? ☐ Y ☐ N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? ☐ Y ☐ N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

10) Tell us anything else you want us to know. _____

Site Plan Information

No aerial photos.
No paper larger than 8½ × 14.
Use labels as shown in the sample.
If you draw to scale, show it.

Show the following:

- ☐ 1) North arrow.
- ☐ 2) Property lines and lengths.
- ☐ 3) Adjacent right-of-ways.
- ☐ 4) Existing and proposed buildings and additions, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

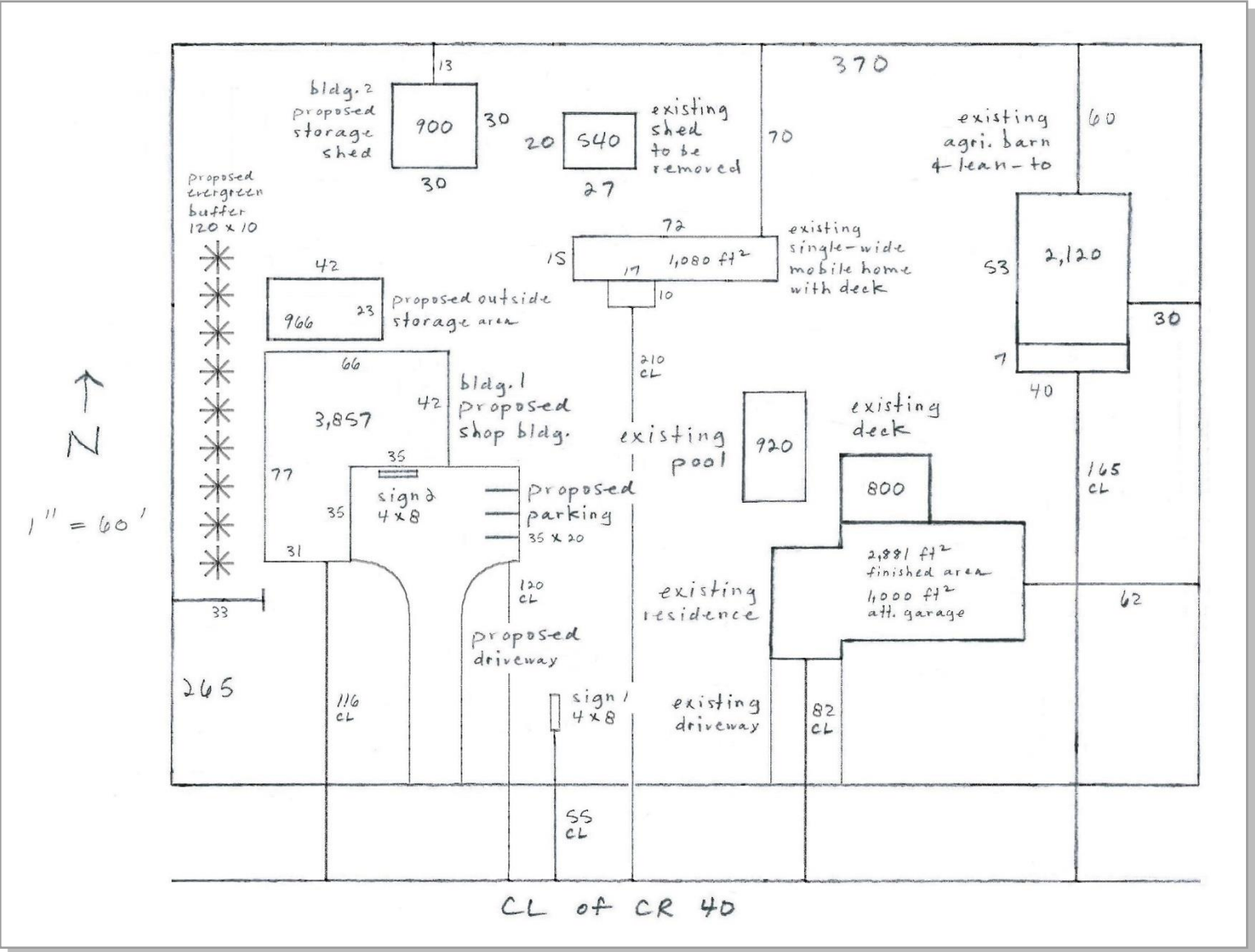
Note: If you give building and addition details in the building-and-addition part of the questionnaire (if applicable), number the buildings and additions on the site plan to match.

- ☐ 5) Existing and proposed driveways.
- ☐ 6) Existing and proposed signs, their sizes, and their setbacks from property lines and centerlines of adjacent right-of-ways.

Note: If you give sign details in the sign part of the questionnaire (if applicable), number the signs on the site plan to match.

- ☐ 7) Existing and proposed parking areas and their setbacks from property lines and centerlines of adjacent right-of-ways.
- ☐ 8) Existing and proposed outside storage areas and their sizes.
- ☐ 9) Existing and proposed buffering with sizes (fences, trees, shrubs, mounds).
- ☐ 10) Existing and proposed access easements with sizes.
- ☐ 11) Buildings, signs, or buffering that will be removed.

Sample site plan



Application Information for Appeal of an Administrative or Hearing Officer Decision

When you have to apply by

3:00 p.m. on the

- ☐ fifth business day after the Hearing Officer decision date.
- ☐ tenth calendar day after the administrative decision date. (If the tenth calendar day is not a business day, apply by 3:00 p.m. on the next business day.)

What you need when you come back (an incomplete application will be refused)

- ☐ 1) Application fee (nonrefundable), \$ _____.
- ☐ 2) Application page, signed.
- ☐ 3) Questionnaire—only if it's an appeal of an administrative decision.
- ☐ 4) Optional supporting documents.
- ☐ 5) An hour of time.

What happens after you apply

- We make a report to the Board of Zoning Appeals.
- We set a hearing time.
- We send notices that show the hearing date and time to you, anyone on the original application page, and (if it's an appeal of a Hearing Officer decision) owners of nearby property. The notice comes a week before the hearing, and the report comes with it.

What happens during the hearing

If it's an appeal of an administrative decision,

- At the hearing time, the staff says the report.
- You say in your own words why you're appealing.
- The Board of Zoning Appeals might ask questions.
- The original applicant gets to respond.
- The Board of Zoning Appeals might ask for additional public comments, for or against.
- The Board of Zoning Appeals closes the public hearing and discusses your appeal.
- The Board of Zoning Appeals makes a decision. It can be to reverse the original decision, affirm it, affirm it with conditions, or postpone to another date.

If it's an appeal of a Hearing Officer decision,

- At the hearing time, the staff says the report.
- The original applicant repeats in their own words what they want to do.
- The Board of Zoning Appeals might ask the original applicant questions.
- Anyone for or against speaks.
- If there's anyone against, the original applicant gets to respond.
- The Board of Zoning Appeals closes the public hearing and discusses the original application.
- The Board of Zoning Appeals makes a decision. It can be to reverse the original decision, affirm it, affirm it with conditions, or postpone to another date.

Application

Site address: _____

Parcel number(s): _____

Appellant

Name: _____

Address: _____

Phone: _____ Email: _____

Appellant's agent

Name: _____

Address: _____

Phone: _____ Email: _____

Signature of appellant or authorized agent: _____

Staff Use Only

Description: _____

Date the appealed decision was made: _____

Who made the appealed decision? ☐ Zoning Administrator ☐ Hearing Officer

Appeal of an Administrative Decision — Questionnaire

Name: _____

1) Tell us why you're appealing. Include facts that support your appeal. _____

[illegible]

2) Tell us anything else you want us to know. _____

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

EXHIBIT F

ELKART COUNTY ADVISORY BOARD OF ZONING APPEALS CERTIFICATION OF RESIDENCY

My residence means the place where I have my true, fixed, and permanent home and principal establishment; and to which I have, whenever absent, the intention of returning. With this understanding, I hereby affirm, under the pains and penalties of perjury, that the following representations are true to the best of my belief and knowledge:

_____ I am a resident of the jurisdictional area of the Elkhart County, Indiana, Advisory Board of Zoning Appeals; or

_____ I am not a resident of the jurisdictional area of the Elkhart County, Indiana, Advisory Board of Zoning Appeals, but I am a resident of Elkhart County, Indiana, and an owner of real property located in whole or in part in the jurisdictional area of the Elkhart County, Indiana, Advisory Board of Zoning Appeals.

This _____ day of _____, 20____

(Signature)

(Printed Name)

EXHIBIT G BZA RESULT LETTER

Case # «CaseNo»

Date:

Petitioner(s):

«PetitionersName»

|

The following shall be referred to as “the Real Estate”:

Street: «SiteAddress»

Current Tax Code #: «TaxID»

You are hereby notified that the petition «Request» on the Real Estate, presented and considered at the meeting of the Elkhart County Advisory Board of Zoning Appeals on «Meeting_Date», was acted upon as follows: **APPROVED** in accordance with the Staff Analysis (**as amended by the Board**) with the following Findings and Conclusions of the Board:

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.**

The following commitments were imposed:

Deviation from said conditions and commitments may result in the Elkhart County Advisory Board of Zoning Appeals rescinding the approval or permit

[Insert Name], Secretary
Elkhart County Board of Zoning Appeals

EXHIBIT H BZA COMMITMENT FORM

Case #

Date:

Grantor:

Grantee:

Elkhart County

Advisory Board of Zoning Appeals

The following shall be referred to as “the Real Estate”:

Street:

Current Tax Code #:

Legal Description: See Attachment A

The Grantor, jointly and severally, agree to abide by the following commitments concerning the use and/or development of the Real Estate with regard to their for a Special Use for a home workshop/business for a woodworking business (building and retail sales of furniture) (Specifications F - #45) granted by the Elkhart County Advisory Board of Zoning Appeals on :

1.

Deviation from said commitments may result in the Elkhart County Advisory Board of Zoning Appeals rescinding the approval or permit.

Further, the Grantor, jointly and severally, agree to the following concerning the procedures associated with maintenance and enforcement of this Commitment:

1. That this Commitment shall be recorded in the Elkhart County Recorder’s Office.
2. That the Grantor shall give notice of this Commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate.
3. That any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate shall be bound by the terms of this Commitment even if it is unrecorded.
4. That the Elkhart County Advisory Board of Zoning Appeals and/or the Elkhart County Zoning Administrator are authorized to enforce the terms of this Commitment.

5. That any property owner adjacent to the Real Estate and/or any specifically affected persons listed below are entitled to enforce the terms of this Commitment separately and independently from the Elkhart County Advisory Board of Zoning Appeals and/or the Elkhart County Zoning Administrator; specifically affected persons are:
_____.
6. This Commitment does not automatically terminate upon a legislative body's adoption of a zoning map amendment (a.k.a. rezoning) covering all or any portion of the Real Estate, or a change in the land use on the Real Estate to which this Commitment relates. However, this Commitment and any related special use or variance may be voluntarily terminated in their entirety pursuant to the Elkhart County Advisory Board of Zoning Appeals Rules of Procedure.
7. This Commitment may also be modified or terminated by a decision of the Elkhart County Advisory Board of Zoning Appeals after public hearing, except as otherwise stated herein.
8. That any and all signatories to this document as a Grantor warrant, jointly and severally, to the Elkhart County Advisory Board of Zoning Appeals that all persons having an ownership interest in the Real Estate have reviewed this Commitment and have signed this document.
9. This Commitment shall be effective immediately upon execution by the Grantor.

[Insert Name], Secretary
Elkhart County Advisory Board of Zoning Appeals

Agreed this the ____ day of _____, 201__, by the following Grantor (collectively the owner(s) of the Real Estate):

Print Name & any title

Print Name & any title

Print Name & any title

Print Name & any title

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, and acknowledged the execution of the foregoing instrument this ____ day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
Resident of Elkhart County, Indiana

I, James W. Kolbus, did prepare this document and do affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

EXHIBIT I HEARING OFFICER RESULT LETTER

Case # «CaseNo»

Date:

Grantor:
«PetitionersName»

Grantee:
Elkhart County
Advisory Board of Zoning Appeals

The following shall be referred to as “the Real Estate”:

Street: «SiteAddress»

Current Tax Code #: «TaxID»

Legal Description: See Attachment A

You are hereby notified that the petition for «Request» on the Real Estate, presented and considered at the meeting of the Hearing Officer of the Elkhart County Advisory Board of Zoning Appeals on «Meeting_Date», was acted upon as follows: **APPROVED** in accordance with the Staff Analysis (**as amended by the Hearing Officer**) with the following Findings and Conclusions of the Hearing Officer:

1.

The following conditions were imposed:

1. A variance from the developmental standards of the Zoning Ordinance is void unless an Improvement Location Permit is taken out within ninety (90) calendar days from the date of the grant and construction work completed within one (1) year from the date of the issuance of the building permit (where required), unless specific permission for additional time is granted by the Hearing Officer of the Elkhart County Advisory Board of Zoning Appeals.
2. Approved in accordance with the site plan submitted and as represented in the petitioner’s application.

Deviation from said conditions and commitments may result in the Elkhart County Advisory Board of Zoning Appeals rescinding the approval or permit.

Note: Any order, requirement, decision or determination made by the Hearing Officer may be appealed to the Board of Zoning Appeals by any interested party who files the appeal within five (5) business days of the respective order, requirement or determination.

Please note that if your request is approved, the Department of Planning and Development does not have the authority to issue a building permit for your request until the five (5) business day appeal period ends and no property appeal has been filed.

[Insert Name], Hearing Officer
Elkhart County Board of Zoning Appeals

EXHIBIT J

MOBILE HOME RESULT LETTER

Case # «CaseNo»

Date:

Grantor:

«PetitionersName»

Grantee:

Elkhart County

Advisory Board of Zoning Appeals

The following shall be referred to as “the Real Estate”:

Street: «SiteAddress»

Current Tax Code #: «TaxID»

You are hereby notified that the petition «Request» on the Real Estate, presented and considered at the meeting of the Hearing Officer of the Elkhart County Advisory Board of Zoning Appeals on «Meeting_Date», was acted upon as follows: **APPROVED** in accordance with the Staff Analysis (as amended by the Hearing Officer) with the following Findings and Conclusions of the Hearing Officer:

1.

The following conditions were imposed:

2. Approved for a period of three (3) years with a one (1) year review to verify compliance with the following conditions:
 - a. The mobile home shall be adequately stabilized, skirted and have tie-downs installed.
 - b. The water supply and sewage disposal system shall be installed in accordance with County Health Department specifications.
 - c. Adequate provisions for storage shall be provided at all times to eliminate exterior storage of personal property, tools and vehicles, except licensed motor vehicles.
 - d. At all times, the premises shall be kept free of abandoned junk vehicles or parts thereof as described by Indiana State Law.

«PetitionersName»

April 20, 2012

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3. Approved in accordance with the site plan submitted and as represented in the petitioner's application.

Deviation from said conditions may result in the Elkhart County Advisory Board of Zoning Appeals rescinding the approval or permit.

Note: Any order, requirement, decision or determination made by the Hearing Officer may be appealed to the Board of Zoning Appeals by any interested party who files the appeal within five (5) business days of the respective order, requirement or determination.

Please note that if your request is approved, the Department of Planning and Development does not have the authority to issue a building permit for your request until the five (5) business day appeal period ends and no property appeal has been filed.

[Insert Name], Hearing Officer
Elkhart County Board of Zoning Appeals

EXHIBIT K

TERMINATION OF COMMITMENT

This is to certify that the Commitment given by _____, as Grantor, to the Elkhart County Advisory Board of Zoning Appeals, as Grantee, executed on the ____ day of _____, 20____, and recorded on the ____ day of _____, 20____, as Document No. 20____ - _____, in the Office of the Recorder of Elkhart County, Indiana, along with the underlying _____, are hereby terminated and released in their entirety as to the following described real estate in Elkhart County, Indiana:

based on action of the Elkhart County Advisory Board of Zoning Appeals at its public meeting on the ____ day of _____, 20____.

IN WITNESS WHEREOF, the Elkhart County Advisory Board of Zoning Appeals, Grantee aforesaid, by and through its Zoning Administrator, has hereunto set its hand and seal this ____ day of _____, 20____.

Elkhart County Advisory Board of
Zoning Appeals

By: _____
_____, its Zoning Administrator

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the Elkhart County Advisory Board of Zoning Appeals, by _____, its Zoning Administrator, and acknowledged the execution of the foregoing Termination of Commitment this ____ day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

_____, Notary Public
Resident of Elkhart County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (James W. Kolbus).

Prepared by: James W. Kolbus, Attorney at Law
Barkes, Kolbus & Rife, LLP
118 N. Main St.
Goshen IN 46526
(574) 533-3181

EXHIBIT L

TERMINATION OF COMMITMENT

This is to certify that the Commitment given by _____, as Grantor, to the Elkhart County Advisory Board of Zoning Appeals, as Grantee, executed on the ____ day of _____, 20____, and recorded on the ____ day of _____, 20____, as Document No. 20____-_____, in the Office of the Recorder of Elkhart County, Indiana, is hereby terminated and released as to the following described real estate in Elkhart County, Indiana:

based on a decision of the Elkhart _____ Court ____ in Cause No. _____ dated the ____ day of _____, 20____; reversing the grant of the underlying _____.

IN WITNESS WHEREOF, the Elkhart County Advisory Board of Zoning Appeals, Grantee aforesaid, by and through its Zoning Administrator, has hereunto set its hand and seal this ____ day of _____, 20____.

Elkhart County Advisory Board of
Zoning Appeals

By: _____
_____, its Zoning Administrator

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the Elkhart County Advisory Board of Zoning Appeals, by _____, its Zoning Administrator, and acknowledged the execution of the foregoing Termination of Commitment this ____ day of _____, 20__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires: _____

_____, Notary Public
Resident of Elkhart County, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (James W. Kolbus).

Prepared by: James W. Kolbus, Attorney at Law
Barkes, Kolbus & Rife, LLP
118 N. Main St.
Goshen IN 46526
(574) 533-3181