

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **January 08, 2024 at 5PM** at the following address:

**Pineview Government Center Assembly Room 104
2524 Corydon Pike
New Albany, IN 47150**

ROLL CALL

Present: Larry Bibelhauser, Guy Heitkemper, Scott Whalen, Bill White

Absent: Victor Unruh

Other: Kristi Fox, Nick Creevy, Gabbrielle Adams

MINUTES

Mr. White- announced the November 2023 meeting minutes were approved at the December 2023 meeting but were not signed. The November 2023 meeting minutes were signed at tonight's meeting.

Minutes from December 2023 regular BZA meeting

Motion: Approve

Moved by: Guy Heitkemper, **Seconded by:** Scott Whalen

Motion passed unanimously.

ADMINISTRATIVE

Mr. White- this is our first meeting of the year and by statute, we are required to appoint officers for the New Year. For the purpose of election of officers, Kristi Fox will lead this portion.

Ms. Fox- first step is to appoint a chair or president of the Board.

Motion: Appoint Bill White as President/Chair

Moved by: Guy Heitkemper, **Seconded by:** Larry Bibelhauser

Motion passed.

Mr. White abstained from voting.

Mr. White- asked for a motion for Vice-Chair

Mr. Heitkemper- nominates Victor Unruh as Vice-Chair

Motion: Appoint Victor Unruh as Vice-Chair

Moved by: Guy Heitkemper, **Seconded by:** Larry Bibelhauser

Motion passed.

OLD BUSINESS

Nick Creevy- Director of Building & Development. Included in your packet is the settlement agreement for Murphy Homes, LLC/Chase Murphy. This was for fines and fees for 10044 Whispering Wind Drive, Greenville. They had some drainage items that were out of compliance. He challenged those fines and the judgement was for the County. We worked with him to get a settlement agreement after the corrections were made. The homeowner approved those corrections. The settlement agreement included legal fees and 15% of the outstanding fine which came to a total of \$24,645.00. He has provided a check in that amount but it has not cleared the bank yet. Approval of this agreement should be pending that money clearing the bank.

Ms. Fox- her only recommendation is the approval of the agreement be contingent on the check clearing and allowing the Chairperson to sign that agreement outside of the meeting once the check has cleared.

Mr. White- asked if the check has been deposited.

Mr. Creevy- it has been deposited but it has not cleared per the Bank.

Motion: Approve to accept the agreement contingent on the check clearing and to allow the Chairperson to sign the agreement outside of the meeting.

Moved by: Guy Heitkemper, **Seconded by:** Scott Whalen

Motion passed.

NEW BUSINESS

Agenda Item 1 – FC-12-23-27: Development Standards Variance – Applicant is requesting variance to allow an accessory structure in the front yard setback fronting Quarry Road. Adams Construction Services, Inc. 4196 Quarry Road, New Albany, IN 47150 (Parcel 22-02-03-100-094.000-002). Section 31, Township 2 South, Range 6 East.

Agenda Item 2 – FC-12-23-28: Development Standards Variance – Applicant is requesting variance to allow an accessory structure in the front yard setback fronting E. Rouck Road. Adams Construction Services, Inc. 4196 Quarry Road, New Albany, IN 47150 (Parcel 22-02-03-100-094.000-002). Section 31, Township 2 South, Range 6 East.

Agenda Item 3 – FC-12-23-29: Development Standards Variance – Applicant is requesting variance to allow an accessory structure (car port) in front of the primary structure on a corner lot. Adams Construction Services, Inc. 4196 Quarry Road, New Albany, IN 47150 (Parcel 22-02-03-100-094.000-002). Section 31, Township 2 South, Range 6 East.

Thad Adams- Adams Construction, PO 2946 Clarksville, IN 47130, representing Applicants.

Mr. White- asked Mr. Adams if he and the applicants are okay with hearing all three dockets at the same time.

Mr. Adams- was in agreement that it makes sense to hear all three items together.

Nick Creevy- Read Staff Report: Applicant is requesting three Development Standards Variances to allow the construction of a 20 foot by 26 foot carport on a corner lot abutting Quarry Road and E. Rouck Road. Due to the property being on a corner lot, it has two front yards. FCZO 5.02 - D: In the case of a

through or corner lot, any property line abutting a street shall be considered a front property line and the setback from that line shall conform to the front yard setback regulations of the base zone district. The Building Commissioner will have discretion to determine the side and rear setback lines for a corner or through lot. The proposed structure will encroach the 60 foot front yard setbacks on both fronts. The structure will be approximately 29.5 foot from Quarry Road and 25 foot from E. Rouck Road front property lines (to Right of Way). The existing home structure is legal non-conforming with a 28 foot setback from Quarry Road and approximately 51 foot from E. Rouck Road Right of Ways. The structure will be placed over an existing drive which connects to E Rouck Road. In addition to the setback variances, an additional variance for an accessory structure in the front yard is requested for the carport. The carport will be a permanent structure, use materials to match the existing structure with a roof and no sidewalls. The applicant has provided a site plan, building plans, health department approval with septic site plan, and a sample image of the proposed carport structure. An existing non-conforming accessory structure, a shed, is located on the property fronting E Rouck Road. The dwelling, house, is oriented facing Quarry Road. There is a steep slope to the rear of the property. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The approval of the variances will not be injurious to the community because the structure will be set back from the public roads to not inhibit site distance. The structure will not obstruct or confuse the identification of structures or prohibit access to the primary structure for the provision of services. 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The variances will not substantially adversely affect adjacent properties because it will be consistent with other structures in the area. It will be built with similar material as the primary structure and there are existing non-conforming structures on site in similar locations. Additionally, the improvement is expected to raise the property value and therefore have positive effects on neighboring values. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The existing structures on the property are legal non-conforming. The on-site septic is located to the rear/side of the home along with steep slope. The location of these structures and topography prohibits the practical location of any accessory structure in a location that would not require variances. 4. The variance does not involve a structure that is near an airstrip and regulated under Indiana Code 8-21-10. There is not an airstrip in the vicinity. Staff Recommendations: None

Mr. Whalen- did the zoning change? Is that why they are legal non-confirming?

Mr. Creevy- No, the home and barn were built before prior to 2006 which is when we adopted the modern ordinance that we have.

Mr. White- asked if the applicant would like to present.

Mr. Adams- Nick pretty much covered it really well. One thing to know about the location of the carport, it's due to the location of the driveway. He believes the driveway was placed on the flat spot. They would like to use the current driveway and just need a covered space for weather. Does not believe there will be any negative impact.

Mr. Bibelhauser- will you be moving the sidewalk any?

Mr. Adams- There is an existing sidewalk that will not be disturbed. A portion of the driveway will not be covered. They will use the same path to go inside the house.

Mr. White- asked if anyone would like to speak in favor. No one came forward. Asked if anyone would like to speak in opposition. No one came forward. (No members of the public were in the audience)

Mr. Bibelhauser- read the ballot. Docket FC-12-23-27, Petitioner Adams Construction Services, Inc. After careful review the Board finds that: 1. Approval of the variance WILL NOT be injurious to the public health, safety, morals and general welfare of the community because: the variances will not be injurious to the community because the structure will be set back from Quarry Road and will not inhibit the site distance. The structure will not obstruct or prohibit access to the primary structure for the provision of services. 2. The use and value of the area adjacent to the property included in the variance WILL NOT be affected in a substantially adverse manner because: it will be consistent with other structures in the area. The carport will be built with similar material as the primary structure and there are existing non-conforming structure on site in a similar location. Additionally, the improvement is expected to raise the property value and therefore have positive effects on neighboring property values. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the topography prohibits the practical location of any accessory structure in a location that would not require a variance. The on-site septic system is located to the rear/side of the home. Steep slopes dominate the rear/side of the lot. Additionally, the existing structures on the property are legal non-conforming. 4. This variance DOES NOT involve a structure that is near an airstrip and regulated under Indiana Code 8-21-10. The Board of Zoning Appeals hereby GRANTS the Petitioner's Variance at the meeting held on the 8th day of January, 2024.

Motion: Approve FC-12-23-27

Moved by: Larry Bibelhauser, **Seconded by:** Guy Heitkemper

Motion passed.

Mr. Bibelhauser- read the ballot. Docket FC-12-23-28, Petitioner Adams Construction Services, Inc. After careful review the Board finds that: 1. Approval of the variance WILL NOT be injurious to the public health, safety, morals and general welfare of the community because: the variances will not be injurious to the community because the structure will be set back from East Rouck Road and will not inhibit the site distance. The structure will not obstruct or prohibit access to the primary structure for the provision of services. 2. The use and value of the area adjacent to the property included in the variance WILL NOT be affected in a substantially adverse manner because: it will be consistent with other structures in the area. The carport will be built with similar material as the primary structure and there are existing non-conforming structure on site in a similar location. Additionally, the improvement is expected to raise the property value and therefore have positive effects on neighboring property values. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the topography prohibits the practical location of any accessory structure in a location that would not require a variance. The on-site septic system is located to the rear/side of the home. Steep slopes dominate the rear/side of the lot. Additionally, the existing structures on the property are legal non-conforming. 4. This variance DOES NOT involve a structure that is near an airstrip and regulated under Indiana Code 8-21-10. The Board of Zoning Appeals hereby GRANTS the Petitioner's Variance at the meeting held on the 8th day of January, 2024.

Motion: Approve FC-12-23-28

Moved by: Larry Bibelhauser, **Seconded by:** Guy Heitkemper

Motion passed.

Mr. Bibelhauser- read the ballot. Docket FC-12-23-29, Petitioner Adams Construction Services, Inc. After careful review the Board finds that: 1. Approval of the variance WILL NOT be injurious to the public health, safety, morals and general welfare of the community because: the variances will not be injurious to the community because the structure will be set back from Quarry Road and East Rouck Road and will not inhibit the site distance. The structure will not obstruct or prohibit access to the primary structure for the provision of services. 2. The use and value of the area adjacent to the property included in the variance WILL NOT be affected in a substantially adverse manner because: it will be consistent with other structures

in the area. The carport will be built with similar material as the primary structure and there are existing non-conforming structure on site in a similar location. Additionally, the improvement is expected to raise the property value and therefore have positive effects on neighboring property values. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the topography prohibits the practical location of any accessory structure in a location that would not require a variance. The on-site septic system is located to the rear/side of the home. Steep slopes dominate the rear/side of the lot. Additionally, the existing structures on the property are legal non-conforming. 4. This variance DOES NOT involve a structure that is near an airstrip and regulated under Indiana Code 8-21-10. The Board of Zoning Appeals hereby GRANTS the Petitioner's Variance at the meeting held on the 8th day of January, 2024.

Motion: Approve FC-12-23-29

Moved by: Larry Bibelhauser, **Seconded by:** Scott Whalen

Motion passed.

Motion: Adjourn

Moved by: Guy Heitkemper, **Seconded by:** Larry Bibelhauser

Motion passed.

Adopted this 12th day of February, 2024.



Chairperson



Attest