

Not at mtg

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on May 13, 2024 at 5PM at the following address:

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

ROLL CALL

Present: Victor Unruh, Guy Heitkemper, Scott Whelan, Bill White

Absent: Larry Bibelhauser

Other: Kristi Fox, Nick Creevy, Gabbrielle Adams

A quorum was announced.

MINUTES

Minutes from April, 2024 regular BZA meeting were not ready to be approved.

OLD BUSINESS

Agenda Item 1 – FC-03-24-09: Development Standards Variance – Requesting to build an accessory structure (post building) in front of the primary structure (home). Joshua Meunier. 4620 Buck Creek Road, Floyds Knobs, IN 47119 (Parcel 22-04-00-700-136.037-006). Section 07, Township 2 South, Range 6 East.

Mr. Unruh- Thinks it makes sense to put the building where the applicant is proposing.

Mr. Heitkemper- The steepness of the slope would be a problem.

Mr. Whalen- Thought there might be an opportunity to have traffic come from a side road and work back there, but the slope is simply enormous.

Mr. Unruh- Read the ballot. 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the accessory structure will not create an additional drive or point of conflict on Buck Creek Road, and it will not interfere with access, create confusion, or crowd structures inhibiting emergency service provisions. 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 the location of the structure will not impact the use of neighboring properties and will utilize an existing drive connecting to Buck Creek Road. The lot is large and the structure will meet setback standards and will be consistent with rural setting (garages and barns are allowed on AR lots of 5 acres or greater). 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the rear yard is significantly sloping making it impractical to use as a building site of suitable size to store an RV and utility trailer. 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. *Conditions:* Vegetative screening to be maintained to the abutting Charlet Ridge. Additional trees planted between structure and Buck Creek Road.

Screening of Charlet Ridge and Buck Creek Road to be consistent with Buffer Yard 1 Standards (FCZO 5.09-A) for plantings.

Motion: Approve with Conditions

Moved by: Victor Unruh

Seconded by: Guy Heitkemper

Motion passed.

NEW BUSINESS

Agenda Item 2 – FC-04-24-11: Special Exception – Request to operate a horse related business that may include horse boarding, riding lessons, trail riding, horse parties (i.e., birthday parties, pony parties) and horse therapy. Copper Corral, LLC. 3246 North Luther Road, Floyds Knobs, IN 47119 (Parcel 22-02-02-400-125.003-002). Section 24, Township 2 South, Range 5 East.

Mr. Creevy- Director of Building and Development. Read the Staff Report: The applicant is requesting a special exception for a horse related business in a Residential Suburban zone. The proposed use will include horse boarding, riding lessons, trail riding, horse parties (e.g. birthday parties of no more than 15 people), and horse therapy. The property is roughly 8 ½ acres with an existing single family dwelling with an accessory pole barn. An additional 50'x49'-6" agricultural building will be built for the horses east of the existing barn and drive. The adjoining properties are zoned residential suburban but consist of large lot residential uses and agricultural uses. *Staff Comments:* 1. The special exception will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed use will not generate excessive traffic and there is over 300 feet of sight distance in each direction. Additional use of septic on site has been approved by the Health Department. 2. The use and value of the area adjacent to the property subject to the special exception will not be affected in a substantially adverse manner. Neighboring properties are also large lot with mixed residential and agricultural uses. A small scale equine business will not generate excessive or unusual noise, light, smell, or other nuisances to neighboring properties. 3. The need for the special exception does arise from some condition peculiar to the property involved. The property is a large lot and rural in character with surrounding lots also large lots with agricultural and residential uses. 4. The strict application of the terms of the Floyd County Zoning Ordinance will result in an unnecessary hardship in the use of the property. The proposed use is not by right in the residential suburban district and would be prohibited. However, the use is consistent with the rural agricultural character of the property and surrounding properties and would not inhibit future development in the area consistent with the current zoning. 5. The approval of the special exception will not contradict the goals and objectives of the Floyd County Comprehensive Plan. The proposed use is consistent with the primary objective of the Comprehensive Plan to maintain the rural character of the County. Additionally, it supports local business growth. 6. The special exception will not adversely affect neighboring property. The use will not generate excessive traffic or create nuisances for neighboring properties. Additionally, the use is low impact and will not inhibit the development of neighboring properties in the future. *Staff Recommendations:* Ingress/egress drive to be paved a minimum of 8 feet at connection to North Luther Road.

Jason Copperwaite- Applicant, 3246 North Luther Road. Gave the Board Members copies of aerials of the property. The property is near the Highlander Point growth area, but is in a very rural part of that area, surrounded by fields and pastures. Aerials indicate properties that currently or recently had horses. Would not be an intense use.

Mr. Heitkemper- Asks if they will be using their horses or bringing their own. Will horses be met with by appointment?

Mr. Copperwaite- Confirms that it will be their horses, and their horse trailer is the only one going in and out. Confirms that it is by appointment only.

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. Closed public comment.

Mr. Whalen- Read the ballot: 1. The special exception will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed use will not generate excessive traffic and there is over 300 feet of sight distance in each direction. Additional use of septic on site has been approved by the Health Department. 2. The use and value of the area adjacent to the property subject to the special exception will not be affected in a substantially adverse manner. Neighboring properties are also large lot with mixed residential and agricultural uses. A small scale equine business will not generate excessive or unusual noise, light, smell, or other nuisances to neighboring properties. 3. The need for the special exception does arise from some condition peculiar to the property involved. The property is a large lot and rural in character with surrounding lots also large lots with agricultural and residential uses. 4. The strict application of the terms of the Floyd County Zoning Ordinance will result in an unnecessary hardship in the use of the property. The proposed use is not by right in the residential suburban district and would be prohibited. However, the use is consistent with the rural agricultural character of the property and surrounding properties and would not inhibit future development in the area consistent with the current zoning. 5. The approval of the special exception will not contradict the goals and objectives of the Floyd County Comprehensive Plan. The proposed use is consistent with the primary objective of the Comprehensive Plan to maintain the rural character of the County. Additionally, it supports local business growth. 6. The special exception will not adversely affect neighboring property. The use will not generate excessive traffic or create nuisances for neighboring properties. Additionally, the use is low impact and will not inhibit the development of neighboring properties in the future. *Conditions:* Ingress/egress drive to be paved a minimum of 8 feet at connection to North Luther Road within 1 year of approval.

Motion: Approve with Conditions

Moved by: Scott Whalen

Seconded by: Victor Unruh

Motion passed.

Mr. Creevy asked the Board Members to change the order of agenda items.

Agenda Item 7 – FC-04-24-16: Special Exception – Applicant is requesting a modification requests for docket FC-04-19-13 to include: 1. Amend lead abatement, 2. Add gun sales, 3. Add camping, 4. Adjust hours of operation, 5. Adjust boundary restrictions, 6. Add pistol/rifle matches, 7. Add motocross events, 8. Add alcohol sales. Sporting Club at the Farm / Joe Crea. 4939 Highway 111 South, New Albany, IN 47150 (Parcel 22-01-02-900-001.000-001, 22-01-02-900-006.000-001, 22-01-02-800-020.000-001, 22-01-02-900-007.000-001, 22-01-02-900-011.000-001, 22-01-03-200-004.000-001, 22-01-03-100-015.000-001, 22-01-03-200-008.000-001, 22-01-03-100-003.000-001, 22-01-03-200-001.000-001). Section 04, Township 2 South, Range 5 East.

Mr. Creevy- Read the Staff Report: The applicant is requesting modification to the approval of a Wildlife Preserve/Sportsman Club (shooting clays) (FC-04-19-13 – June 2019). The modification request includes the following items: 1. To modify Condition 12 of the original approval from lead reclamation every two years to every fifteen years. 2. To allow gun sales. 3. To add approximately (30) thirty spaces for primitive camping. 4. Modify the shooting stand boundary area. 5. Modify hours of operation for three to five special events to allow after dark shooting events during the winter season. 6. To allow additional special events to occur annually (only once a year) with special events being a pistol/rifle match and a motocross event. 7. To modify the condition pertaining to alcohol sales to allow alcohol sales by the Club

between the hours of 1:00pm and closing. Other Modifications on Original Approval: March 2020 (FC-04-19-13) -Struck condition 10, Struck condition 16, Amended Condition 5 Hours of Events Tuesday – Saturday 9am – 11:30 pm, Conditional 14 Alcoholic beverages will not be permitted within 200 yards of range area, Alcohol to be catered by licensed vendor only. No other alcoholic beverages permitted at any other time, Once alcohol is served the range and hunting areas will be closed, Maximum people at event 500 per day. If more than 300 must have traffic control. September 2021 (FC-08-21-21): Allowed five gun shooting events per year (that require early start time) with no more than 1 per month., Expanded the Boundary on the Eastern end of the site, Allow camping (tent and RV) on event dates, Increase buffer for Reilly Property, Amend Condition 5 to Hours of Operation for special shooting tournament events 8am to sunset, Camping is permitted in any area as long as it's in a safe location designated at the time of temporary permit application, Amend Condition 8 boundary location. The applicant has provided a complete application, a rough site plan for the camping location, a rough indication of the boundary expansion location, and a supporting document from Richard Peddicord, Ph.D. regarding the lead reclamation interval. Staff has requested more detailed site plans with clearer indications of the boundaries. *Staff Findings:* Uncertain. Lead reclamation: Initial approval of the use was accompanied by an approved Stormwater Pollution Prevention Plan (SWPPP) and an Environmental Stewardship Plan (ESP). The SWPPP identifies lead particulate as pollution generated from the site and sediment erosion potential from reclamation processes. It further dictates that the ESP should be followed for lead reclamation activities, that lead reclamation should occur between 3 – 5 years as a moderate use facility, and that the County should be notified with documentation of amounts recycled. The ESP provided best management practices which include reclamation and recycling of lead periodically, discouraging ingestion of lead by birds and wildlife and maintaining the ESP as an up-to-date document (annual review and updates of ESP), among other recommendations. The ESP further recommends periodically measuring pH of soil in shotfall area and to take steps to maintain optimal level to minimize the potential for metals to enter water or groundwater. It notes that EPA guidance is clear that lead reclamation should be conducted as part of range maintenance at a frequency considering range-specific environmental and operational conditions. And it further states that the environmental and economic benefits can only be reliably estimated by a qualified lead reclamation company. The applicant's provided document from Richard Peddicord notes that lead reclamation varies over time based on site specific conditions and other relevant factors. Additionally, he conducted interviews with three lead reclamation companies and found that shot reclamation at clay target ranges vary from 4 year intervals, 5 year intervals, and some up to the mid to upper teens. Edwardsville Water Authority (EWA) have sent a request to postpone the meeting for 30 to 60 days to conduct an investigation to ensure the water quality will remain the same. EWA has a well field located approximately 4,000 feet from the gun range. Boundary modification provided is unclear, more detailed boundary map needed. No details on motocross event provided, additional information on location of course needed. 1. The special exception (unsure if will or will not) be injurious to the public health, safety, morals, and general welfare of the community. 2. The use and value of the area adjacent to the property subject to the special exception will not be affected in a substantially adverse manner. 3. The need for the special exception does arise from some condition peculiar to the property involved. 4. The strict application of the terms of the Floyd County Zoning Ordinance will result in an unnecessary hardship in the use of the property. 5. The approval of the special exception will not contradict the goals and objectives of the Floyd County Comprehensive Plan. 6. The special exception will not adversely affect neighboring property. *Staff Recommendations:* Additional information is needed to make determinations on a number of the requested modifications. Staff recommends tabling the request to allow the applicant to provide additional information and to allow Edwardsville Water Authority to investigate potential impacts to the water system.

Motion: Table

Moved by: Guy Heitkemper

Seconded by: Victor Unruh
Motion passed.

John Kraft- Representing the applicant, 126 W Spring St. Takes exception to not being given notice that the staff would recommend tabling of the variance.

Mr. White- Recommends that Mr. Creevy follow up with applicant in writing. Wants clarity from the water company to get some answers.

Mr. Heitkemper- Believes more time is needed to understand how many more shooting events would be held and to understand how often primitive camping would be done. Just a rough idea is needed of what to expect. Would like for things to be less vague.

Mr. Creevy- Notes that he did provide a report to Mr. Kraft with everything except the motion to table.

Agenda Item 3 – FC-04-24-12: Development Standards Variance – Request to build a detached garage that will encroach 6'-6" into the 10 foot required side yard setback, leaving approximately 3'-6" between the garage and side property line. Brandon Smith (Veteran Contracting Services, LLC). 3602 Alonzo Smith Road, Georgetown, IN 47122 (Parcel 22-02-02-200-015.000-002). Section 22, Township 2 South, Range 5 East.

Mr. Creevy- Read the Staff Report: Applicant is requesting a variance to the side yard setback requirement of 10 feet in a rural residential district. The request is for a detached garaged to encroach the setback 6 feet 6 inches leaving 3 feet 6 inches between the structure and the property line. The proposed location is at the end of an existing drive and partially located over septic washer lines. Applicant proposes to move location of washer lines to the front of the property. Health Department has no objections to moving the lines but is withholding site approval until lines are installed and inspected. The adjoining properties are also rural residential with the Brazil Lake Estates subdivision to the rear and either side is single family residential. Across the street is a residence and farm. The property adjoining the setback in question has a privacy fence located near/at the property line. *Staff Comments:* 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The structure does not create any hazards to adjoining properties and there is adequate room to navigate around the structure if necessary. The Health Department must approve the site prior to construction. 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. There is adequate room to navigate around the structure if necessary and it does not create a nuisance or significant obstruction to air, sound, or light. The improvement will likely increase property value which will have positive impacts on values in the area. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The existing layout of the property limits the possible location of the structure that will be practical to use as a garage. 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:* Approval dependent on Health Department Site approval.

Brandon Smith- Applicant, 1009 Freedom Court, Greenville. The Health Department has given them approval if they get approved for a variance.

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. Closed public comment.

Mr. Unruh- Read the ballot: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the structure does not create any hazards to adjoining properties and there is adequate room to navigate around the structure if necessary. The Health Department must

approve the site prior to construction. 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 there is adequate room to navigate around the structure if necessary and it does not create a nuisance or significant obstruction to air, sound, or light. The improvement will likely increase property value which will have positive impacts on values in the area. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because the existing layout of the property limits the possible location of the structure that will be practical to use as a garage. 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. *Conditions:* Approval dependent on Health Department site approval.

Motion: Approve with conditions

Moved by: Victor Unruh

Seconded by: Scott Whalen

Motion passed.

Agenda Item 4 – FC-04-24-13: Development Standards Variance – Request to build an accessory structure that will encroach the 60' front setback from Highway 11. David Bowling. 3801 Highway 11, Lanesville, IN 47136 (Parcel 22-01-02-300-022.000-001). Section 23, Township 3 South, Range 5 East.

Mr. Creevy- The applicant is not present, would like to table the item to give him another chance to appear at the next meeting.

Motion: Table

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

Agenda Item 5 – FC-04-24-14: Development Standards Variance – Request to build an accessory structure that will encroach the 60' front setback from Smith Creek Road. David Bowling. 3801 Highway 11, Lanesville, IN 47136 (Parcel 22-01-02-300-022.000-001). Section 23, Township 3 South, Range 5 East.

Motion: Table

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

Agenda Item 6 – FC-04-24-15: Development Standards Variance – Request to build an accessory structure located in front of the primary structure. David Bowling. 3801 Highway 11, Lanesville, IN 47136 (Parcel 22-01-02-300-022.000-001). Section 23, Township 3 South, Range 5 East.

Motion: Table

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

Motion: To Adjourn
Moved by: Guy Heitkemper
Seconded by: Victor Unruh
Motion passed.

Adopted this 10th day of June, 2024


Chairperson


Attest