

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **March 11, 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, Victor Unruh, Guy Heitkemper, Scott Whalen, Bill White

Absent: none

Other: Kristi Fox, Nick Creevy, Gabbrielle Adams

MINUTES

Minutes from February 2024 regular BZA meeting.

Motion: Approve

Moved by: Victor Unruh

Seconded by: Scott Whalen

Motion passed unanimously.

NEW BUSINESS

Agenda Item 1 – FC-02-24-04: Development Standards Variance – Applicant is requesting to build a new home that will use an existing 24' wide easement that does not meet the 50' wide easement requirement. Debra Bowman. 5716 Budd Road, New Albany, IN 47150 (Parcel 22-01-01-900-045.001-001). Section 19, Township 3 South, Range 6 East.

Mr. Creevy- Director of Building & Development. Read the Staff Report: Applicant is requesting to build a new home that will use an existing 24' wide easement that does not meet the 50' wide easement requirement for lot frontage. The existing easement provides access to Budd Road from the parent tract using a 12' gravel drive with a paved apron at ingress/egress. The 24' easement runs adjacent to Knob Creek. The gravel drive wanders out of the easement avoiding the creek floodplain area meandering through two other parcels not owned by the easement holders (i.e. Evitt & Fulkerson). Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The existing drive providing access to the parent lot has been utilized for more than 10 years without issue. Adding a single residential lot will not substantially increase traffic and there is more than 300' of site distance in either direction of the drive. 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 easement is already existing and used for access to a single family residence and other property, the addition of one single family residence will not generate significant traffic and therefore will not have substantial impact on either the value or use of neighboring properties. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The otherwise conforming lot would not be able to be developed without a variance. The easement already exists and provides access to the legal non-

conforming parent tract. Due to the easement location between the adjoining properties it is unable to be widened. The property is not suitable for further future development so a 50' wide easement is not necessary. 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: 1. Provide a use and maintenance agreement for the access easement and drive with all impacted property owners a party to the agreement. Staff to approve prior to recording and issuing of building permit.

Mr. Unruh- asked if the existing roads are what they use now.

Mr. Creevy- they have a 24' wide easement that runs straight back to the new subdivided property. There is a gravel drive that runs part of the way through that easement and then meanders out of the easement back to the property to avoid the creek floodplain. They will utilize the drive as their access but they will have the 24' easement to Budd Road. Recommends that they update the driveway easement to include all users involved. Not sure they will be able to get a permit along the creek, will need DNR and Corp approval to be that close to the creek. Prefers to see the existing gravel driveway captured in an easement with a use and maintenance agreement.

Mr. Bibelhauser- do you want that recorded?

Mr. Creevy- Yes, reviewed by Staff and recorded.

Debra Bowman- Applicant, 306 Broekers Lane, New Albany. The property that she will build on is currently owned by her son. They do have a maintenance agreement that they all signed. Does not have it with her but it is recorded.

Mr. Creevy- the deed says they have access to a 12' gravel drive. The new subdivision would not be included in that and it doesn't describe the drive in any way, it just says 12' drive. Would like to see something a little more specific so there won't be any disputes.

Mr. Unruh- timeframe?

Ms. Bowman- as soon as she can. She has sold her current home.

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. Bibelhauser- read the ballot. Docket FC-02-24-04, Petitioner is Debra Bowman. 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 existing drive providing access to the parent lot has been utilized for more than 10 years without issue. Adding a single residential lot will not substantially increase traffic and there is more than 300' of site distance in either direction of the drive. 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 easement is already existing and used for access to a single-family residence and other property, the addition of one single family residence will not generate significant traffic and therefore will not have substantial impact on either the value of use of neighboring properties. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: The otherwise conforming lot would not be able to be developed without a variance. The easement already exists and provides access to the legal non-conforming parent tract. Due to the easement location between the adjoining properties, it is unable to be widened. The property is not suitable for further future development so a 50' wide easement is not necessary. 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 11th day of March, 2024. Approval by the Board is subject to the completion of the following conditions: Provide a use and maintenance agreement for the access easement and drive with all impacted property owners a party to the agreement. Staff to approve prior to recording and issuing of building permit. The agreement shall include a description of the drive that will be used for access.

Motion: Approve with Conditions

Moved by: Larry Bibelhauser

Seconded by: Guy Heitkemper

Motion passed unanimously.

Agenda Item 2 – FC-02-24-05: Development Standards Variance – Applicant is requesting to build an accessory structure (pole barn) in front of the primary structure. Sherry & Kevin Akridge. 7360 Corydon Ridge Road, Lanesville, IN 47136 (Parcel 22-02-00-300-014.000-002). Section 03, Township 3 South, Range 5 East.

Mr. Creevy- Director of Building & Development. Read the Staff Report: The applicant is requesting a variance to the accessory structure standard which prohibits accessory structure in the front yard, allowing location in the side or rear yard only, except for barns and garages in Agricultural Residential districts. The applicant intends to build a 50'x30' steel barn located between the residence and Corydon Ridge Road. The property is approximately 20 acres with a large portion forested and hilly. The barn will be set back from the road approximately 665'. Primary use of the barn will be for physical therapy equipment need for the owner. The owners' residence and proposed barn are also located behind another parcel with a residence being built that will be closer to Corydon Ridge Road. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community: The building location will not create a physical hazard to surrounding properties being substantial setback from neighboring properties lines. Additionally, being located on a large tract with few other structures it will not create obstruction or confusion of public 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 structure will have no substantial impact on the use or value of neighboring properties as it is not near any property lines and on a large tract. The structure will appear in the rear of another property located closer to the road and will keep with a rural aesthetic. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: The property is substantially hilly and forested, with the use of the building for therapy equipment, alternative locations on the property would be impractical for the owner. 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... commercial use is prohibited in RR districts.

Sherry & Kevin Akridge- Applicants, 7360 Corydon Ridge Road, Lanesville, IN 47136. They are currently building and downsizing. Right now, they have the physical therapy equipment in their basement and the new home is on a slab so they do not have a place for the equipment. The only place they can build the barn that is close to the house is where they are proposing. The property is hilly and wooded and this placement is the best accessibility.

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. Bibelhauser- read the ballot. Docket FC-02-24-05, Petitioners are Sherry & Kevin Akridge. 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 building location will not create a physical hazard to surrounding properties being substantial setback from neighboring properties lines.

Additionally, being located on a large tract with few other structures it will not create obstruction or confusion of public 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: The structure will have no substantial impact on the use or value of neighboring properties as it is not near any property lines and on a large tract. The structure will appear in the rear of another property located closer to the road and will keep with the rural aesthetic of 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 property is substantially hilly and forested, with the use of the building for therapy equipment, alternative locations on the property would be impractical for the owner. 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 11th day of March, 2024. Approval by the Board is subject to the following written commitments: The Applicant shall submit a written commitment that they will not operate a business at this address before a building permit will be issued.

Motion: Approve
Moved by: Larry Bibelhauser
Seconded by: Scott Whalen
Motion passed unanimously.

Motion: To Adjourn
Moved by: Guy Heitkemper
Seconded by: Scott Whalen
Motion passed unanimously.

Adopted this 8th day of April, 2024.


Chairperson


Attest