

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **November 13, 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

Minutes from the October 2024 regular BZA meeting.

Motion: Approve

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

NEW BUSINESS

Agenda Item 1 – FC-10-24-44: Administrative Appeal – Applicant is appealing the September 9, 2024 Notice of Violation for infringing upon the shooting boundary for archery. The Sporting Club at the Farm. 4939 Highway 111 South, New Albany, IN 47150 (22-01-02-900-001.000-001). Section 29, Township 3 South, Range 6 East.

Mr. Creevy- Director of Building & Development. This is for the Sporting Club at The Farm and is an administrative appeal on The Notice of Violation for the shooting boundary. Earlier this week and attempted last week, we were notified that the certified mailings to the adjoining property owners were not mailed appropriately within the timeframe required. For that reason, Staff requests that this item be tabled to the December 9th BZA meeting which will be held at 5:00 here. Notice for adjoining property owners is not automatically required for an Administrative Appeals, however, Staff did request that The Farm notify the abutting neighbors. The tabling will be at your discretion.

Mr. White- Your recommendation is that we consider tabling because of the lack of notice to abutting property owners?

Mr. Creevy- Yes.

Mr. White- asked for any questions or comments from the Board. None. Asked for a motion.

Motion: Table until December 9th 2024 meeting

Moved by: Scott Whalen

Seconded by: Larry Bibelhauser

Agenda Item 2 – FC-10-24-45: Development Standards Variance – Applicant is requesting a variance to allow an accessory structure greater than 18 feet. Kristen Ehringer. 5653 Daily Road, New Albany, IN 47150 (22-01-03-100-011.000-001). Section 31, Township 3 South, Range 6 East.

Mr. Heitkemper- Recused himself because he farms the Ehringer property.

Mr. Creevy- Read the Staff Report: Applicant is requesting a development standards variance to allow an accessory structure to exceed the maximum height of 18 feet. The structure is an elevated storage building with a maximum height of 26 feet. The location of the project is in the identified floodplain and has received all necessary approvals for construction in a floodplain. The base floor elevation will be 2 feet above the base flood elevation. The structure is to be elevated 14 feet. Adjacent properties are zoned AR in all directions. Much of the property is included in the Flood Hazard Area (floodplain – AE fringe designation) as are neighboring properties to the north, south, and east. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed structure has been planned to avoid flood damages. The location of the structure is not near other structures and will be compliant with building code. 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 property is approximately 28 acres with large neighboring lots. The structure will be built with flood protection standards. There is no obvious impediment to the use or value of neighboring properties. 3. The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property. Much of the arable land on the property is located in a floodplain. The accessory structure is used to assist with the production of the land in the floodplain. In order to build in the floodplain, the structure must be elevated 14 feet which would only allow a 4 foot in height structure which is not feasible. 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. Bibelhauser- with this being in the Floodplain, does the Corp of Engineers or DNR have restrictions on building in the floodplain?

Mr. Creevy- we have reviewed that process and there are forms that the Applicant has completed to indicate if they need a Corp or DNR permit and they do not. This is in a fringe area which typically do not require a Corp or DNR permit unless it's in a floodway or stream.

Mr. Bibelhauser- so it's in the fringe instead of the floodway.

Mr. Creevy- Correct.

Kristen Ehringer- Applicant, 5653 Daily Road, New Albany, Indiana. The overall height will be around 29'. It will be elevated 14' and then have 12' walls. The 18' is not feasible to walk in if the building is built at 18'.

Mr. Bibelhauser- what is the purpose of this building?

Ms. Ehringer- we have a flower produce farm. Need a space to process vegetables, flowers, and they do florals for events/weddings and needs a workshop. The upstairs will be more like a studio and the bottom will be where they process the flowers and vegetables.

Mr. Bibelhauser- so no intention to convert to living space upstairs?

Ms. Ehringer- no, we live on the property, we have a house on the hill.

Mr. Bibelhauser- the sliding doors with glass made him think it was more than a barn for processing vegetable and that was his concern. As long as you can assure him it won't be used for anything else besides farming.

Ms. Ehringer- the upstairs is a studio space.

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.

Mr. Bibelhauser- asked if there was anything against calling the space a "studio".

Mr. Creevy- No, they would be allowed to have an accessory studio in that zone as long as it's not a dwelling.

Mr. Bibelhauser- read the ballot. Docket FC-10-24-45, 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 proposed structure has been planned to avoid flood damages. The location of the structure isn't near other structures and will be compliant with building code. 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 property is approximately 28 acres with large neighboring lots. The structure will be built using flood protection standards. There is no obvious impediment to the use or values 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: Much of the available land on the property is located in a floodplain. The accessory structure is used to assist with the production of the land in the floodplain. In order to build in the floodplain, the structure must be elevated 14 feet which would only allow a 4 foot in height structure which would not be practical or useable. 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 13 day of November, 2024. Approval by the Board is subject to the following written commitments: The Applicant shall commit that the structure will not be used for living space.

Motion: Approve with Written Commitment

Moved by: Larry Bibelhauser

Seconded by: Scott Whalen

Motion passed.

Mr. Heitkemper returned to the meeting.

Agenda Item 3 – 2025 Meeting & Turn-in Schedule

Mr. Creevy- presented the 2025 meeting schedule. Has vetted with County Council to make sure we don't have any last minute overlaps.

Mr. White- looked it over and did not see any issues as proposed. He may not be at the June meeting.

Mr. Bibelhauser- didn't find anything that's a problem.

Mr. White- it's generally our normal schedule. There is a chance he may not be here for the June meeting but good with all the dates.

Ms. Fox- yes, everything works.

Mr. Whalen- I'm good.

Mr. Creevy- will likewise ask the Plan Commission if those dates works as well. We don't have to have the same dates for meetings but it's helpful.

Motion: Approve the 2025 meeting schedule

Moved by: Scott Whalen

Seconded by: Larry Bibelhauser

Motion passed.

Motion: Adjourn

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

Adopted this 9th day of December, 2024.


Chairperson


Attest