

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **March 13, 2023 at 5PM** at the following address:

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

ROLL CALL

Present: Guy Heitkemper, Jason Sharp, Bill White

Absent: Larry Bibelhauser, Victor Unruh

Other: Kristi Fox, Attorney

MINUTES

Minutes from February 13, 2023 regular BZA meeting

Motion: Approve

Moved by: Jason Sharp, **Seconded by:** Guy Heitkemper

Motion passed.

NEW BUSINESS

Mr. White- made an announcement that agenda item #4 will be heard first and that the applicant has requested to table the docket until the April 2023 meeting.

Agenda Item 4 – FC-02-23-04: Development Standards Variance - Requesting to build a single family dwelling without the minimum 100' required road frontage or minimum 50' private access easement. Todd Hensley & Roxanne Hall, Vacant land between 7090 & 7450 Broadus Lane, Lanesville, IN 47136, Parcels: 22-02-01-000-023.000-002, 22-02-01-000-059.000-002, 22-02-01-000-064.000-002, 22-02-01-000-064.000-002. Section 10, Township 3 South, Range 5 East.

Motion: Table request

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Mr. White- announced agenda items #1 and #2 would be heard together but voted on separately.

Agenda Item 1 – FC-02-23-01: Development Standards Variance - Requesting a variance to allow a 96 square foot main logo sign on the front of the building. (Maximum amount allowed is 50 square feet per sign). Falls City Signs & Graphic, 4646 Duffy Road, Floyds Knobs, IN 47119, Parcel 22-04-03-000-221.000-006. Section 30, Township 2 South, Range 6 East.

Agenda Item 2 – FC-02-23-02: Development Standards Variance - Requesting a variance to allow for an overall of 303.41 total square footage for all of the signs on the building. (Maximum amount allowed is 200 square feet) Falls City Signs & Graphic, 4646 Duffy Road, Floyds Knobs, IN 47119, Parcel 22-04-03-000-221.000-006. Section 30, Township 2 South, Range 6 East.

Nick Creevy- Director Building & Development Services. Read staff report: The applicant is requesting two variances for signage. A variance for a single sign greater than 50' in square footage (96') and a variance for total signage greater than 200 square foot (303.4'). Property has been approved for similar variance request for individual maximum sign size and total signage area in the past (FC-02-17-06 & FC-02-17-07, Goodwill Signage). Different location and sizes of the request require new variances. Property also recently approved for a DSV for outside storage (FC-08-22-45). Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Signage will be fixed static wall signs. No physical hazard will be created by the signs. 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. Signage will not impede the use of adjacent properties and is consistent with other signage in the Highlander Point District. The proposed signage is consistent and unified design and will assist in attracting customers to the site and therefore provide positive commercial impacts for adjacent properties. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Signage could be reduced to comply with size standards. However, due to the building's front entrance orientation away from frontage road an increase in sign sizes may be required for similar effect. The use as a commercial property would be impeded. 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 regulated under IC 8-21-10. Staff Recommendations: Obtain permits from Department of Building and Development. The applicant made a mistake on the application submission and would like for them to clarify their answer. Question #3 is "The strict application of the terms of the zoning ordinance will/will not result in practical difficulties in the use of the property". They indicated that it will not but he believes they intended that to be 'will'.

Brandy Sidebottom- 4850 Critten Drive, Louisville, KY 40209, representing Falls City Signs and Graphics. Originally had 'NO' but was told they wouldn't be able to be seen if answered 'No'.

Mr. Creevy- the pre-application said 'no' and thinks the mistake was in re-submittal because it still said 'no'. You weren't told that you wouldn't be seen but it wouldn't be approved if 'No'.

Ms. Fox- that response needs to be a 'yes' and justifying why.

Ms. Sidebottom- all signs are being attached to the business and advertising the business. There are no lights and does not protrude more than 19mm.

Ms. Fox- please explain why not following the size requirements will result in difficulties of the property.

Ms. Sidebottom- a 50 sq' sign on that size of building looks like a postage stamp. You cannot see it and he will not be able to draw in business.

Mr. White- anything else you would like the Board to know?

Ms. Sidebottom- looked at other signs in the area and the other signs in the area does not meet the standards that are being asked of her client.

Mr. White- that is correct. We are aware of a number of signs in that area that was granted variances.

Dwayne Smothers- President of Falls City Signs, 4850 Critten Drive, Louisville, KY 40209. The signs that came down off that building were larger than 50 sq’.

Mr. Heitkemper- the signs will only be on the front and side towards Hwy 150, correct?

Mr. Smothers- nothing on the back, just north and east face of building.

Mr. White- asked if anyone would like to speak in favor of the request.

Troy Decker- owner of Backyard Staycations. They are just trying to replicate what they have in Sellersburg. Nothing on the back, it’s a large building and they think the size fits the building. No lights or moving graphics. Just displaying what they do and the logo.

Mr. Heitkemper- will there be lights shining up to it?

Mr. Decker- talking with Jack Koetter about security lighting but not planning on lighting the signage.

Mr. White- asked if anyone would like to speak in opposition.

Mr. Heitkemper- read the ballot for docket FC-02-23-01. 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: Sign will be fixed and not lighted and will be attached to building. 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: Consistent with other signs in the area same size. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: with the location of property sign needs to be larger to attract attention to property and business. 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 13th day of March, 2023. Approval by the Board is subject to the completion of the following conditions: get permits before being installed.

Motion: Approve

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Mr. Heitkemper- read the ballot for docket FC-02-23-02. 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: Sign will be fixed and not lighted and will be attached to building. 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: Consistent with other signs nearby businesses. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: with the location of property sign needs to be larger to attract attention to business and property. 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 13th day of March, 2023. Approval by the Board is subject to the completion of the following conditions: get permit before installing signs.

Motion: Approve

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Agenda Item 3 – FC-02-23-03: Conditional Use Variance - Requesting a Conditional Use approval to operate an Automobile Dealership. Roger Sendelweck, 3248 Corydon Pike, New Albany, IN 47150, Parcel 22-05-00-500-007.000-007. Section 05, Township 3 South, Range 6 East.

Nick Creevy- Read staff report. Applicant is requesting the Conditional Use of the neighborhood commercially zoned property for the use as an automotive sales site. Automotive sales is a conditional use in neighborhood commercial zones. The site was the former location of Indiana Core which received a conditional use for operation of an engine component supply company. Prior to that, the site was used as a boat and boat accessory storage. Staff Comments: 1. The conditional use WILL NOT be injurious to the public health, safety, morals, and general welfare of the community because: The proposed use does not impact the light, air, sound, or create any other physical hazard to the public. Activation of the site will eliminate a potential vacant structure hazard. 2. The use and value of the area adjacent to the property WILL NOT be adversely affected because: Active use of the site will benefit neighboring commercial properties and have positive effects on value. Current site conditions will be improved to accommodate use. Use as an automotive dealership will not create hazards or nuisances which would affect adjacent property use. 3. The need for the conditional use DOES result from any conditions, unusual, or peculiar to the property itself because: The property has been used for a similar purpose historically and the location between an active rail line and Corydon Pike limits alternative uses. 4. Strict application of the terms of the Floyd County Zoning Ordinance WILL result in an unnecessary hardship in the use of the property because: The location and condition of the site limit the potential uses of the site. The proposed use is consistent with past uses. 5. Approval of the conditional use WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan because: The use will support locally owned business growth and it utilizes an existing developed site. Staff Recommendations: 1. Parking, entry/exit drives to be paved. 2. Minimum parking spaces equals 15 and consistent with NC zone standards. 3. Parking to be screened from public Right of Way consistent with Landscape Standards of the FCZO. 4. Signage to be approved at permitting and consistent with NC zone standards.

Roger Sendelweck- Applicant. 2218 East Arrowhead Drive, New Albany. He has had several car lots and storage units in New Albany and never had any complaints. He wants to make the building and property a lot nicer because it's run down.

Mr. Heitkemper- how many cars are you planning on having there?

Mr. Sendelweck- usually keeps about 15 cars but his main thing is wholesale, they sell about 20 cars a week at the auction. They want the building for indoor clean ups.

Mr. Heitkemper- where will the cars for sale be parked?

Mr. Sendelweck- in front of the building and customer parking will be on the side. 10-12 cars but plenty far off the road. Plans to take all of the landscaping out and landscape up closer to the building and the cars will be in front of the building.

Mr. Heitkemper- will there be lighting at night?

Mr. Sendelweck- he currently has two signs that he wants to move there.

Mr. Heitkemper- talking about security lighting.

Mr. Sendelweck- yes, some kind of lighting at night because it is pitch black out there.

Mr. Heitkemper- will it be gravel or blacktop?

Mr. Sendelweck- gravel at first and clean out trees and then blacktop.

Mr. Heitkemper- will you be bringing in wrecked cars or old cars?

Mr. Sendelweck- No, he is a motorcycle, boat and car dealer, has all three licenses. They buy a little bit of everything but most of the stuff will be stored indoors. No junk stored outside, it will be nice.

Mr. Heitkemper- how many cars will be parked on that side, if there should be a fence or something on the side towards New Albany and Sycamore Island. Not the cars being shown but in storage.

Mr. Sendelweck- He can. There is a half falling down fence now. He keeps all of his lots neat and nothing is junked up.

Mr. Sharp- will you be putting up a railing around the loading dock?

Mr. Sendelweck- his plan is to fill that in and make it solid.

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. Heitkemper- read the ballot for docket FC-02-23-03. After careful review the Board finds that: 1. The conditional use WILL NOT be injurious to the public health, safety, morals and general welfare of the community because: will not impact light or sound in area and would make good use of vacant building and lot. 2. The use and value of the area adjacent to the property WILL NOT be adversely affected because: it was a commercial building and business before and would be a good use of property. 3. The need for the conditional use DOES result from and conditions, unusual or peculiar to the property itself because: it is in an area that is best suited as commercial do to RR track and highway. 4. Strict application of the terms of the Floyd County Zoning Ordinance WILL result in an unnecessary hardship in the use of the property because: it has been commercial and is allowed with conditional use in NC zone area. 5. Approval of the conditional use WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan because: auto dealerships are allowed in an NC zoned area with conditional use. The Board of Zoning Appeals hereby GRANTS the Petitioner's Conditional Use at the meeting held on the 13th day of March, 2023. Approval by the Board is subject to the completion of the following conditions: 1. Parking ingress and egress to be paved. 2. Parking space consistent with NC zone standards. 3. Signage and lighting approved by staff. 4. Parking to be screened from public right of way consistent with landscape standards. 5. Subject to septic approval of health department.

Motion: Approve

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Agenda Item 5 – Draft Contract – Legal Services regarding foreclosure

Mr. Creevy- gave the members copies of the draft proposal for foreclosure on the Rodewig property. The Commissioners will be taking the lead on this but feel we should provide a recommendation of service for them. Our request is a recommendation for these services for foreclosure. Asks that we cap the service at \$3,000.00. They would need to come back and request additional funds after that.

Ms. Fox- this is just a recommendation to send to the Commissioners with a \$3,000.00 cap.

Mr. White- that is probably a very reasonable expectation and is pretty standard, nothing unusual here.

Mr. Heitkemper- that is just for doing the work, not if it goes to auction.

Mr. White- this is just the filing. We are voting to pass this draft agreement onto the Commissioners for their final approval.

Ms. Fox- I know the Commissioners have used them before for foreclosures

Mr. Heitkemper- recommends that we pass this draft onto them with a \$3,000.00 cap.

Motion: Approve recommendation

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Motion: To Adjourn Meeting

Moved by: Guy Heitkemper, **Seconded by:** Jason Sharp

Motion passed.

Adopted this _____ day of _____, 2023.

Chairperson

Attest