

Floyd County Board of Zoning Appeals

Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **October 16, 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

Mr. White announced there was not a full board and all applicants have the right to table their request and be heard before a full board.

MINUTES

Minutes from September, 2024 regular BZA meeting

Motion: Approve

Moved by: Larry Bibelhauser

Seconded by: Scott Whalen

Motion passed.

NEW BUSINESS

Agenda Item 1 – FC-09-24-43: Development Standards Variance – Applicant is requesting to change the front setback requirement of 60' to 20' for a new home. Witten Builders, LLC. Vacant Land on Unruh Way, Floyds Knobs, IN 47119 (22-04-03-000-299.000-006 & 22-04-03-000-263.000-006). Section 30, Township 2 South, Range 6 East.

Mr. White- announced that Mr. Unruh is not here tonight because he would've had to recuse himself and Mr. White also needs to recuse himself because he does business with the Applicant. Turned the gavel over to Mr. Heitkemper and left the room.

Mr. Creevy- Director of Building & Development. Read the Staff Report: Applicant is requesting a development standards variance to allow a front yard minimum setback of 20 feet instead of the 60 feet requirement for the primary Single Family structure. The property is located along the local road Unruh Way and is not in a platted subdivision. Unruh Way has an approximately

50 foot right of way with current road width approximately 24 feet. FCZO-4.19: Primary Structure Front Yard Setback: 60 feet arterial, collector, local roads. 20 feet Subdivision Street. Adjacent properties are: RS zoned properties with single family homes to the north, east, and south along Unruh Way. An overhead power line and easement are directly to the north of the property. A grandfathered commercial use pole barn is located to the southeast across Unruh Way. There are several grandfathered accessory structures at the corners of Old Vincennes Road and Unruh Way that are located closer than the 60 foot setback on Unruh Way. The property also abuts Old Vincennes Road to the south but there is a wide wooded ditch that would not be suitable as an access point for the property. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Locating the primary structure closer to the front will not create any physical hazards to other properties or obstruct site lines nor confuse the delivery of emergency services at this location. 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. Neighboring structures will be a minimum of 200 feet away from the proposed structure. The structure is a luxury home which will increase the property value of the parcel and is expected to have positive impacts on adjacent property values. 3. The strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property. The home design and location could be modified to accommodate the building setback on the property. There is adequate space for a compliant single family structure to the west of the pond that could be accessed by a drive between the easement and the pond. Additionally, the home design could be modified or reoriented to meet the standards at the current location. 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: It does not appear that compliance with the Zoning Ordinance would result in a practical difficulty in the use of the property. Also received public comments from neighbors that could not be at the meeting. These letters were sent to members and provided a hard copy. Mrs. Unruh sent a letter and said she has no problem with the request, they own property and developed the gravel road to the County standards at their cost and then turned the road over to the County. Another letter from Jody and Anna Crawhorn at 4410 Old Vincennes Road, they note the variance will not have a negative effect, it will only add beauty and value to the street. Another from Mark and Kathy Johnson at 4414 Unruh Way, they note that Unruh Way is considered a major County road but it's actually a short dead end road, they have no issue with the variance, they are an adjoining property to the north.

Mr. Whalen- those letters are the three residences in the cul-de-sac?

Mr. Creevy- one of them is directly north, Crawhorn is at the corner of Unruh Way and Old Vincennes Road, across the street. Jeanie Unruh represents the ownership of the commercial property across the street from it. The Schmidt's themselves own the property to the Northeast and the Coleman's who live across the street that we did not hear from but may be here tonight.

Mr. Whalen- on the plat they showed, the 60' setback is after the right-of-way?

Mr. Creevy- the right-of-way, not the pavement. It would appear further from the roadway at 20'.

Kent Witten- Witten Builders, 3790 Lawrence Banet Road, Floyds Knobs, representing the applicant. The reason for the setback issue is trying to fit the home on the property with the septic, a new barn and the lake. If setback further, the home will be too close to the lake. There is ample road frontage. There are power line utility easement, drainage easements from Spring Farms. It is a County Road but it is more like a subdivision and should've been platted as a subdivision. Subdivision front setbacks are usually 20' and this will be 22'. It's setup perfectly for a walkout basement. The home will be 30'+ from the curb so the appearance will not look like it's encroaching into the road. It's a dead end cul-de-sac.

Mr. Heitkemper- are the stakes set where the house will be?

Mr. Witten- correct. The flags are the edge of the garage and the wooden stakes are where the basement is going to be dug.

Mr. Heitkemper- will the garage be closer to the road then where the stakes are?

Mr. Witten- closer than what the wood stake is but not the red flag, that's set at 22'. The garage on that side is the courtyard garage, so the driveway is off to the right and the swings into the garage. The front will have windows and look like the side of the house.

Mr. Heitkemper- asked if anyone would like to speak in favor.

Jim Schmitt- Homeowner that is building the house, currently lives at 4416 Unruh Way, at the end of the cul-de-sac. This really started 30 years ago when it was a gravel road. We all got together and wanted a paved road and deeded over property to the County. They have looked at every option to layout the house, barn, septic, lake, easements and this layout is the only feasible way to make it all work. He has discussed this with everyone that lives out there and they know his plans.

Donna Hillegas- 4462 Old Vincennes Road, she uses Unruh Way to access her property. She has no issues with the request, it will only add value.

Randall Todd Coleman- 4412 Unruh Way, Floyds Knobs. He is directly across the street and has no problems with the request, it will only enhance the value.

Mr. Heitkemper- asked if anyone would like to speak in opposition. No one came forward. Closed public comment.

Mr. Creevy- the application has provided some practical difficulties with the location on the septic system. That would provide sufficient practical difficulties and Staff would be supportive of it.

Mr. Bibelhauser- Read the ballot: Docket FC-09-24-43, 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: Locating the primary structure closer to the front will not create any physical hazards to other properties or obstruct site lines nor confuse the delivery of emergency services at this location. 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: Neighboring structure will be a minimum of 200 feet away from the proposed structure. The structure is a luxury home which will increase the property value of the parcel and is expected to have positive impacts on adjacent 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 logical place to construct the home is facing Unruh Way, and 150' wide power line easement prevents construction along the north property line. Locating the residence in the rear of the track will add excessive development cost primarily to construct an entrance from Old Vincennes Road. Locating the house near the west property line would severely restrict where the owner could construct an out building/barn on the property. Locating the house to the west would make the septic system location a challenge. In addition Unruh Way is a cul-de-sac thus similar to a subdivision street which only requires a 20' front yard setback and not an arterial, collector or local street that requires a 60' setback. 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 16th day of October, 2024. No conditions.

Motion: Approve

Moved by: Larry Bibelhauser

Seconded by: Scott Whalen

Motion passed.

Motion: Adjourn

Moved by: Guy Heitkemper

Seconded by: Scott Whalen

Motion passed.

Adopted on this 13th day of November, 2024.



Chairperson



Attest