

# Floyd County Board of Zoning Appeals

## Minutes

The regular meeting of the Floyd County Board of Zoning Appeals was held on **September 9, 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 August, 2024 regular BZA meeting

**Motion:** Approve

**Moved by:** Victor Unruh

**Seconded by:** Larry Bibelhauser

**Motion passed.**

Mr. Heitkemper abstained from voting since he recused himself from the Sporting Club at The Farm docket FC-04-24-16.

### OLD BUSINESS

#### **Agenda Item 1 – FC-06-24-29: Ballot Correction**

**Mr. Creevy-** this is for a clerical correction to ballot FC-06-24-29. Condition #6 of the ballot stated “hours of operation limited Monday-Saturday, 8am-6pm” but the minutes prove that the condition was actually Monday-Friday, 8am-6pm. What was written did not reflect what was said and voted on. Asking for Board permission to amend the ballot and a vote so it can be included in the record.

**Motion:** Amend ballot to say Monday-Friday

**Moved by:** Victor Unruh

**Seconded by:** Larry Bibelhauser

**Motion passed.**

**Agenda Item 2 – FC-07-24-34: Development Standards Variance** – Applicant is requesting a reduction of the front setback requirement of 60 feet to 45 feet for a detached garage. Brad Cassetto. 3335 Gap Hollow Road, New Albany, IN 47150 (22-05-02-000-005.000-007). Section 20, Township 3 South, Range 6 East.

**Mr. Creevy-** Read Staff Report: Applicant is requesting a development standards variance for the construction of an accessory garage. The applicant is requesting a variance to allow less than the 60 foot minimum required setback for agricultural residential properties. The subject property is located at 3335 Gap Hollow Road. The property is heavily forested with steep slopes. Adjacent properties are: AR properties with single family homes to the east and west, to the north is Gap Hollow Road and a handful of AR properties with single family homes. To the south is an AR property that is heavily forested. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The lot is located in a low density area that will remain low density due to the presence of steep slopes. The building will be located 45 feet away from the current right of way for Gap Hollow Road. 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. Due to the topography of the site and neighboring lots size and shapes, building nearer to the property lines in the front will not inhibit the use of adjacent properties. The natural slope, vegetation, and a screen will minimize the visibility for the proposed garage. Other properties in this area have already built closer than the standard to the property line due to the presence of water and sloping conditions. 3380 Gap Hollow Road, 3791 Gap Hollow Road 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The lot dimensions and the steep slopes provide a limit to the building area that is safely accessible by vehicle during the winter. 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: Front setbacks can be reduced with little to no impact on adjacent properties.

**Brad Cassetto-** Applicant, 3335 Gap Hollow Road, New Albany, Indiana, 47150. It's a pretty straight forward garage to park cars and get clutter out of eyesight.

**Mr. Whalen-** asked if the site has been used before or if it was cleared for this.

**Mr. Cassetto-** it had previously been cleared and collected stuff over the years. He is trying to clean it up.

**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. Asked if Mr. Cassetto had anything else to add, seeing none, asked for a ballot.

**Mr. Bibelhauser-** Read the Ballot. Docket FC-07-24-34, 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 lot is located in a low density area that will remain low density due to the presence of steep slopes. The building will be located 45 feet away from the current right of way for Gap Hollow Road. 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 topography of the site and neighboring lots size and shapes, a building nearer to the front property line will not inhibit the use of adjacent properties. The natural slope, vegetation, and a vegetation screen will minimize the visibility for the proposed garage. Other properties in this area have already built closer than the standard to the property line due to the presence of water and sloping conditions. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the lot dimensions and the steep slopes provide a limit to the building area that is safely accessible by vehicle during the winter. 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 12 day

of August 2024. Approval by the Board is subject to the completion of the following conditions: Maintain vegetation screen between building and the road.

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Scott Whalen

**Motion passed unanimously.**

## **NEW BUSINESS**

**Agenda Item 3 – FC-08-24-35: Development Standards Variance** – Applicant is requesting to utilize a berm and trees for screening instead of fence or wall for outdoor storage. Peck Properties. 3815 Paoli Pike, Floyds Knobs, IN 47119 (22-04-02-000-144.000-006). Section 20, Township 2 South, Range 6 East.

**Mr. Creevy-** Read Staff Report: Applicant is requesting a development standards variance for outdoor screening of materials in a General Industrial zone. The applicant is requested the use of a 3' berm and giant arbs and spruce trees spaced 8' apart in lieu of an opaque fence or wall. The property abuts Little Indian Creek to the west and is elevated by a small hillside to the west along E. Luther Road. Adjacent properties are: adjacent zoning to the property is residential suburban to the north and west and general industrial to the east and south. Uses across Paoli Pike are a post office and large lot single family residential and historic farm. Across E Luther are three single family residential lots. The lot directly adjoins general industrial uses. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The use of a berm and trees is consistent with current conditions and will not restrict site distances or create a physical hazards to adjoining uses. 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 lot already uses a berm and plantings as screening for part of the lot that has not affected the use or value of adjacent properties. A berm and plantings will create a more aesthetically consistent corridor that is expected to have a more beneficial effect than opaque fencing or walls. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The lot already has a berm and plantings which historically screened the property. Changes in topography on site would render fencing and wall screening less effective. 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. Unruh-** asked if this property was originally approved for the Perpetual Hops location.

**Mr. Creevy-** historically, there was a PUD for that Our Lady of Perpetual Hops but that was never developed so it reverted back to the original property and doesn't have anything to do with this.

**Justin Endris-** Attorney with Young, Lind, Endris & Kraft at 126 West Spring Street, New Albany, Indiana. Representing the Applicant, Peck Properties. RJ Lamb with Peck Properties is also here with him. Staff summarized well. He thinks a berm would suffice as a wall structure that is required. Zoning standards limit a fence height to 4' or 8' depending on location and with the slope of the land, they think a berm would look better and fit the area better.

**Mr. Heitkemper-** asked where the parking will be. Moving dirt and digging out? Showed Mr. Endris on a map where is talking about.

**Mr. Endris-** the large trees will stay but he is moving dirt around.

**Mr. Creevy-** the request is only for the site screening. The site plan details are not being considered now. Modifications to the site would require a separate approval. This is just about the screening.

**Mr. Heitkemper-** it was already sort of screened, are they moving above that area?

**Mr. Endris-** the screening is above that area. There will be an additional berm and tree plantings 8' apart.

**Mr. Heitkemper-** and additional parking up there?

**Mr. Endris-** no, parking is not related to any of this.

**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. Asked if the Applicant had anything else, seeing none, asked for a ballot.

**Mr. Bibelhauser-** Read the Ballot: Docket FC-08-24-35, 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 use of a berm and trees is consistent with current conditions and will not restrict site distances or create a physical hazards to adjoining property uses. 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 lot already uses a berm and plantings as screening for portion of the lot. This type of screening has not affected the use or value of adjacent properties. A berm and plantings will create a more aesthetically consistent corridor that is expected to have a more beneficial effect than opaque fencing or walls. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the lot already has a berm and plantings which historically screened the property. Changes in topography on site would render fencing and wall screening less effective. 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 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: Two rows of giant arbs and spruce trees shall be planted and spaced 8' apart. The two rows shall be staggered. The berm shall be constructed such that the trees will not interfere with the overhead utilities.

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Guy Heitkemper

**Motion passed unanimously.**

**Agenda Item 4 – FC-08-24-36: Development Standards Variance** – Applicant is requesting a split a 1.377 acre lot into two lots that will not meet the minimum lot requirement of 37,000 square feet (.85 acres). Jeremy Loftus. 5830 Spring Meadow Drive, Georgetown, IN 47122 (22-02-03-600-209.000-002). Section 36, Township 2 South, Range 5 East.

**Mr. Creevy-** Read Staff Report: Applicant is requesting a development standards variance for minimum lot size to allow the creation of one new lot. The parent tract and the new tract will both be less than

the minimum lot size of 37,000 square feet for Rural Residential zoning. The current lot is 1.377 acres (59,982 square feet) and has a single family dwelling on the east portion of it. The new lots will be 32,277 square feet and 27,747 square feet respectively. The existing home will be on the smaller lot. The both sites will be on septic and have adequate space. The parent tract received a development standards variance for front yard setback of 40 feet instead of the normal 60 feet (FC-10-13-29). That setback is consistent with other lots in the area and the nearby Spring Meadows subdivision. The lot sizes in nearby Spring Meadows subdivision range in size from 25,743 square feet to 31,232 square feet. Other lots on Spring Meadows drive range from 27,248 square feet to 36,897 square feet. Adjacent properties are: RR properties with single family homes to the east and west, to the north is a single family residential/agricultural property, to the south are single family lots and 17 lot Spring Meadows Subdivision. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The lots are sufficient for appropriate infrastructure and have site approvals from the Health Department for septic. 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 new lots will be consistent with other lots in the area in the platted subdivision of Spring Meadows and outside of the platted subdivision on Spring Meadows Drive. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Other lots in the area are consistent with the proposed size and the smaller lot sizes will be easier for the current owner to maintain. 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: Record miscellaneous document with both tracts noting previous development standards variance approval as well as this approval.

**Jason Copperwaite-** Paul Primavera and Assoc. at 301 East Chestnut Street, Corydon, Indiana. Representing Applicant, Jeremy Loftus who is here with him tonight. Gave the Board copies of the property aerial. Agrees with the Staff Report. The owner of the existing home is a 92 year old widow on a fixed income and wants to reduce her costs for mowing and maintaining the property. The proposal also meets the objective for infill development to provide additional housing with little to no impact on existing infrastructure. Mr. Loftus is a licensed septic installer in Floyd County. The Health Department did provide a letter stating they can get adequate septic for both lots.

**Mr. Unruh-** asked if they know what size the house will be, any deed restrictions?

**Mr. Copperwaite-** no but it would be comparable in value and construction. Mr. Loftus plans to hold this until his daughter is ready to build a house, maybe in a couple of years. Would have to follow any deed restrictions.

**Mr. White-** asked if anyone would like to speak in favor. No one came forward. Asked if anyone would like to speak in opposition.

**Mary Jane Flick-** 5833 Spring Meadows Drive, right across the street. When the house was built they built it because they couldn't stay in a two story house and they had this spare lot next to them. The laterals went way into the property. Doesn't know how the health department approved it because she saw it being built. They didn't say how big the lot is, it says square footage. The new house is being put on the larger because that's what you want the variance for, the smaller one is already there. She hooked with up with a mower and he only charges \$35 and sure he wouldn't charge her much more. If he's going to wait and build later on, what's the septic going to look like then, it's bound to change. We do not want a duplex look at all.

**Ian Stewart-** 5842 Spring Meadows Drive. Showed the Board a copy of the plat. Drainage is not installed for any of the houses on the street. He has dealt with all the run off for 23 years, they already have major water accumulation at the cul-de-sac and that is his major concern.

**Mike Chezem-** 5843 Spring Meadows Drive. Takes offense to the staff comments on where the neighborhood starts and stops and a lot of people have tried to maintain the neighborhood and keep the correct frontage. If the house is built and raises the elevation, drainage needs to be taken into account. When Mr. Sinkhorn built house, he talked to many of them and said no house will ever be built on that lot because of where they orientated the septic. Said Mr. Loftus should've bought the land up the street. This should not be happening, this is not what Ed wanted or the neighborhood and all it does is decrease their property value.

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

**Mr. Copperwaite-** the drawing shows the existing septic system is on what we are calling Tract 1 which will be the new home location and will be repurposed to serve the new house, part of the agreement, if this variance is approved, is to construct a new system next to the existing building. That new system is what informed the decision of the new lot line. There is room for two septics in that vicinity- one new one for the existing house and the existing system will be used for this new house. No duplex looks, these are stand-alone single family houses of comparable value. There's no intention to build a duplex here. Believes Mr. Loftus' reputation proceeds him in the community, he is a quality builder. Doesn't see how one house would make drainage significantly worse but Mr. Loftus is out there every day doing his best to control water in whatever development he working on, he will take steps to do what he could to improve that situation.

**Mr. Unruh-** asked for a timeline on septic and building

**Mr. Copperwaite-** if the variance is granted and the lot is allowed to be created, then he will have to construct the new system for the existing house, then the lot will be split and the existing septic system will sit there dormant until the new house is built and tied into that system.

**Mr. Unruh-** the health department does change their regulations but will you get approval for the building permit?

**Mr. Copperwaite-** at that time he would have to satisfy whatever permit requirements are in place, he would have to do.

**Mr. Unruh-** so if they health department changes and makes it to where he can't build on it, that's possible right?

**Mr. Copperwaite-** then he would have an unbuildable lot. Typically though, the Health Department looks at existing systems that were built in accordance with the standards at that time they were installed, sort of like a 'grandfathered' so it would take an extreme loop change to not allow them to use that system but it is possible and would be at his risk.

**Mr. Unruh-** so Mary who brought up the subject as far as the septic system, that kind of makes that void because the new system will be totally on lot 2

**Mr. Copperwaite-** the drawing that was submitted shows the existing system and the new system which informs the creation of the new lot lines.

**Mr. Heitkemper-** what would be the timeline if this is approved?

**Mr. Copperwaite-** in order to split the lot the new system will have to be installed. Not sure if this fall or next year, depending on soil conditions. From her septic tank, it will flow to the new system and that will be separated from the existing system and those facilities will remain in the ground undisturbed until such time the new home is built.

**Mr. Unruh-** a new tank will be required for the new house that will tie into the existing system.

**Mr. Copperwaite-** Correct.

**Mr. Bibelhauser-** Read the ballot: Docket FC-08-24-36, 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 lots are sufficient for appropriate infrastructure and have site approvals from the Health Department for their septic systems. 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 new lots will be consistent with other lots in the area in the platted subdivision of Spring Meadows and outside of the platted subdivision on Spring Meadows Drive. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: Other lots in the area are consistent with the proposed size and the smaller lot sizes will be easier for the current owner to maintain. 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 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: Record miscellaneous document with both tracts noting previous development standards variance approval as well as this approval. Applicant shall get staff approval for drainage of the developed lot.

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Victor Unruh

**Motion passed unanimously.**

**Agenda Item 5 – FC-08-24-38: Development Standards Variance** – Applicant is requesting to rebuild the inground pool that will encroach into the front yard. Joseph Happel. 2020 Trio Lane, Georgetown, IN 47122 (22-02-02-600-010.001-002). Section 26, Township 2 South, Range 5 East.

**Mr. Creevy-** Read Staff Report: Applicant is requesting a development standards variance for the construction of an accessory (pool) in front of the primary structure. The property is located on a private drive (Trio Lane) that connects to Edwardsville Galena Road. The existing house is approximately 1,900 feet away from the public right of way and is located on a 6.7 acre lot. The owner also owns the adjacent acreage. The home is located at the rear corner of the lot and has buried gas line to the rear of the home. The septic system is to the side of the home and there is a steep grade sloping to the rear and

side of the home as well. The proposed pool structure surrounds start on the side of the home and extend into the front yard. The plans include screening trees towards the front. The property drive is lined with trees which provided screening at the access point to Trio Lane and is nearly 1000 feet from the nearest viewable point from Trio Lane. Adjacent properties are large lot single family residential and agricultural with Residential Suburban and Rural Residential zoning. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The location of the accessory structure is secluded from neighboring properties and the public right of way by large lots and a private drive. It will not interfere or confuse public service provision and the pool will require either a fence or retractable cover consistent with State Statute. 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 lot is located on a private drive and is secluded from neighboring properties by hundreds to thousands of feet and vegetative screening. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Due to the location of the home on the lot, the location of buried gas lines, septic lines, and sloping terrain, there are no areas on the property where a pool can be located without a variance. 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. Unruh-** asked what the set-a-side area is on the colored map.

**Mr. Creevy-** the applicant would have to tell you.

**Joseph Happel-** Applicant, 2020 Trio Lane, Georgetown, Indiana. The set-a-side, at the time was for the septic, they asked me where it was when they came out. We've positioned it as far west as we could without encroaching into the septic or power lines. Gave the Board copies of renderings of the pool and house, everything is finished except the pool.

**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-08-24-38, 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 location of the accessory structure is secluded from neighboring properties and the public right of way by large lots and a private drive. It will not interfere or confuse public service provision and the pool will require either a fence or retractable cover consistent with State Statute. 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 lot is located on a private drive and is secluded from neighboring properties by hundreds to thousands of feet and vegetative screening. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: the location of the home on the lot, the location of buried gas lines, septic lines, and sloping terrain, there are no areas on the property where a pool can be located without a variance. 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 9<sup>th</sup> day of September, 2024. No conditions.

**Motion:** Approve

**Moved by:** Larry Bibelhauser

**Seconded by:** Guy Heitkemper



**Motion passed unanimously.**

**Agenda Item 6 – FC-08-24-39: Development Standards Variance** – Applicant is requesting to build an accessory structure (carport) that will sit in front of the primary structure (home). Dana Stone. 7307 County Line Road, New Albany, IN 47150 (22-05-06-500-045.000-007).

**Mr. Creevy-** Read Staff Report: Applicant is requesting a development standards variance for the construction of an accessory car port. The applicant is requesting a variance to allow building an accessory structure (carport) that will sit in front of the primary structure (home). Carport will be built on the existing driveway. The subject property is located at 7307 County Line Road, New Albany, IN 47150. Adjacent properties are: RS properties with single family homes are located along County Line Road with a church to the east. Further south east is the Koehler Place subdivision. Staff Comments: 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed structure will be a 276sq' detached carport that can be easily removed at a later date. The structure will be located 93 feet away from the current right of way for County Line Road. 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. Being located far from the road with trees providing cover and along a less developed portion of the RS zoning district, the variance will not affect the surrounding properties in a substantially adverse manner. 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The closest point of the house to the front of the lot is 137 feet from the road, a garage blocks off the north-eastern side of the parcel and the septic system blocks off the south-western side of the parcel. 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: Allowing the accessory structure to sit in front of the primary structure is reasonable given that the structure is easily removable, located further back from the road, and has trees located as a partial screen.

**Mr. Unruh-** after this approval, will they still have to get a building permit and inspection process?

**Mr. Creevy-** yes.

**Mr. Unruh-** will this go on the existing asphalt or will they put a new concrete foundation to anchor this?

**Mr. Creevy-** not sure, it will have be compliant with building code. The location is on the existing asphalt but not sure about adding any concrete.

**Mr. Unruh-** the lift is the most important if wind get underneath there.

**Daniel Stone-** Husband of applicant, Dana Stone, 7307 County Line Road, New Albany, Indiana. The structure will be on the blacktop. Gave the Board copies of the engineered plans with the tie-down instructions.

**Mr. Heitkemper-** asked if the metal will come down the sides or will it be open.

**Mr. Stone-** it comes down a couple of feet.

**Mr. Unruh-** it looks like it comes down about 18"

**Mr. Stone-** will be open but will be about 2' come down.

**Mr. Whalen-** it looks to be less than half way down

**Mr. Heitkemper-** you okay with planting trees so you can't see into the carport?

**Mr. Stone-** how will I do that on the blacktop?

**Mr. Heitkemper-** to the side of it

**Mr. Whalen-** in between the existing the pines

**Mr. Unruh-** between you and your neighbor

**Mr. Stone-** no problem

**Mr. Unruh-** something that will stay green year round- Norway spruce, Evergreen and put them close enough that they grow together.

**Mr. Bibelhauser-** you already have a two car garage and this will be in front of it, it's 32 feet, you still going to be able to get into the garage?

**Mr. Stone-** has a 1971 Dodge Demon and it's kept in the garage, she has her car in the garage and has a 2023 Denali that he wants to keep in the carport.

**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: Docket FC-08-27-39, 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 will be a 276 sq' detached carport that can be easily removed at a later date. The structure will be located 93 feet away from the current right of way for County Line Road. 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 carport will be located far from the road with trees providing cover and along a less developed portion of the RS zoning district, the variance will not affect the surrounding properties in a substantially adverse manner. 3. The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because: The closest point of the house to the front of the lot is 137 feet from the road, a garage blocks off the north-eastern side of the parcel and the septic system blocks off the south-western side of the parcel. 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 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: The carport will be constructed without full sides. / Additional screening.

**Motion:** Approve with Conditions

**Moved by:** Victor Unruh

**Seconded by:** Scott Whalen

**Motion passed.**

**Yes-** Victor Unruh, Bill White, Scott Whalen, Guy Heitkemper

**No-** Larry Bibelhauser

**Mr. White-** asked the Applicant and Mr. Creevy if the next two agenda items can be heard together and voted on separately since it is the same applicant. Mr. Creevy and Applicant both agreed

**Agenda Item 7 – FC-08-24-40: Special Exception** – Applicant is requesting to install metal building for hosting special events such as weddings, parties, retreats, corporate training, and community events for single mothers. Jacob’s Well, Inc. 8757 Rufing Road, Greenville, IN 47124 (22-03-03-300-113.000-004). Section 33, Township 1 South, Range 5 East.

**Agenda Item 8 – FC-08-24-41: Development Standards Variance** – Applicant is requesting to allow the accessory structure (metal building) to be located in front of the primary building. Jacob’s Well, Inc. 8757 Rufing Road, Greenville, IN 47124 (22-03-03-300-113.000-004). Section 33, Township 1 South, Range 5 East.

**Mr. Creevy-** Read Staff Report: The applicant is requesting to modify a previous Conditional Use approval that allowed the use of the property as a bed and breakfast and special event space (FC-08-96-37). The applicant is requesting an expansion of the use allowing special events. The expansion is to construct a smaller 50’x60’ metal frame building to be used for storage and smaller events such as weddings, parties, retreats, corporate trainings, etc. The lot is nearly 4.5 acres and is accessed by a drive connecting to Rufing Road. The primary building is setback over 1000 feet from the road and is surrounded by wooded land. The proposed structure will be located in front of the existing structure and will also require a Development Standards Variance for the location. The applicant is a non-profit which serves single mothers and children with transitional services to help support their stabilization through education, training, therapy, career and financial service etc. Adjacent Property: the property is surrounded primarily by large vacant lots consisting of woodlands or farmland, single family residents adjacent to the entrance drive at Rufing Road. The surrounding properties are also zoned Rural Residential. Staff Findings: 1. The special exception WILL NOT be injurious to the public health, safety, morals, and general welfare of the community. The use is not a new use but an expansion of an existing allowed use. The special events structure will be permitted to regulation and will not create physical hazards to neighboring properties. The structure will not inhibit emergency service provisions because it is accessible by an existing drive. 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. The property is secluded from neighboring uses and is surrounded by wooded land. The expansion will not generate traffic inconsistent with the existing use and will not create any nuisances including sound or light that would impact adjacent properties. The current use has been approved and operating for years with no impact on the value of neighboring properties. 3. The need for the special exception DOES arise from some condition peculiar to the property involved. The property has a history of use for special events and is on a large and secluded lot. It is an expansion of an approved Conditional use which requires approval for modifications by Special Exception. 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 expansion of the use of the property requires a Special Exception approval because it was an approved Conditional Use under a historic zoning ordinance. The proposal is consistent with the current use and will not impact adjacent properties in a substantially adverse manner nor will it create injurious conditions. A smaller structure will allow the non-profit to serve smaller groups more affordably. 5. The approval of the special exception WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan. The approval does not result in a contradiction to the goal of preserving the rural character because the property is secluded and the structure is visually similar to barns and structures found in rural settings.

Staff Recommendations: Maintain wooded screening of structures from neighboring properties to the greatest extent possible.

**Kevin Willard**- 8757 Rufing Road, Greenville, Indiana. He is the founder and President of Jacob's Well. A friend that works for ACT Building Systems and they donated the metal building to them since they are a non-profit. They want to use the building for small events and to expand their ministry outreach to provide more space single mothers programs and classes like budgeting, parenting, first time home buying, job search help and support groups for trauma related issues. They also want to rent the building for a small venue choice for parties, graduations, small weddings, small banquets, small funeral memorial services and the funds raised from these events will go back to help with the ministry to the single mothers. The best area for this is to the side and faces Rufing Road but sits over 1,000 feet from the road.

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

**John Cospers**- 2860 Plantation Court, Sellersburg, Indiana. Represents ACT Building Systems and they needed a new building for training and his boss told him to find a worthy non-profit to donate their old building to. He has known Mr. Willard for years and Jacob's Well is exceptional. This will have a lot of value for them.

**Mr. White**- asked if anyone else would like to speak in favor. No one asked if anyone would like to speak in opposition.

**Denise Townsend**- 8717 Rufing Road. Not opposed to the request or the building but has some concerns about the crowd size, traffic and noise. Also any concerned about restrictions on gun shooting or tannerite. Lots of shooting sounds around them, not sure where it's coming from but is concerning.

**Mr. Heitkemper**- asked if the shooting is coming from this property.

**Ms. Townsend**- does not think it is coming from this property but it's coming from up the hill.

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

**Mr. Willard**- they do not allow any firearms or fireworks and that would not be an issue for any of their events. Should not increase any traffic. The new building will be less than 50 people and no simultaneous events. The main building is half the size it used to be, it use to be 400 people capacity and now it's 200 because they only have one side in use and no plans to use it.

**Mr. Unruh**- asked the hours of operation, what time do you cut off.

**Mr. Willard**- 10:00pm

**Mr. Whalen**- asked if Mr. Creevy had a copy of the conditions for the current conditional use.

**Mr. Creevy**- No, that approval is 30+ years old. If you have any concerns, put them on now.

**Mr. Bibelhauser**- Read the Ballot for docket FC-08-24-40: After careful review the Board finds that: 1. The special exception WILL NOT be injurious to the public health, safety, morals and general welfare of the

community because: The use is not a new use but an expansion of an existing allowed use. The special events structure will be permitted to regulation and will not create physical hazards to neighboring properties. The structure will not inhibit emergency service provisions because it is accessible by an existing drive. 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 because: The property is secluded from neighboring uses and is surrounded by wooded land. The expansion will not generate traffic inconsistent with the existing use and will not create any nuisances including sound or light that would impact adjacent properties. The current use has been approved and operating for years with no impact on the value of neighboring properties. 3. The need for the special exception DOES arise from some condition peculiar to the property involved because: The property has a history of use for special events and is on a large and secluded lot. It is an expansion of an approved Conditional Use which requires approval for modification by Special Exception. 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 because: The expansion of the use of the property requires a Special Exception approval due to the fact that it was an approved Conditional Use under a historic zoning ordinance. The proposal is consistent with the current use and will not impact adjacent properties in a substantially adverse manner. A smaller structure will allow the non-profit to serve smaller groups more affordably. 5. The approval of the special exception WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan because: The approval does not result in a contradiction of the goal to preserve the rural character because the property is secluded and the structure is visually similar to barns and structures found in rural settings. The Board of Zoning Appeals hereby GRANTS the Petitioner's Special Exception at the meeting held on the 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: 1. Maintain the wooded screening of structures from neighboring properties to the maximum extent possible. 2. Obtain written approval from the Fire Department that there is adequate clearance around the building in case of emergency.

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Guy Heitkemper

**Motion passed unanimously.**

**Mr. Bibelhauser-** Read the Ballot for docket FC-08-24-41: After careful review the Board finds that: 1. The variance WILL NOT be injurious to the public health, safety, morals and general welfare of the community because: The location of the structure in front of the primary will not impact the provision of emergency services to the existing structure or neighboring properties. There is a 20' drive between the buildings. 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 lot is secluded from neighboring properties which are largely mostly vacant wooded or farmed lots. The structure will not be visible from the right of way. 3. The strict application of the terms of the Floyd County Zoning Ordinance WILL result in practical difficulties in the use of the property because: The location of the existing structure is towards the rear of the lot with the septic system and lateral fields located behind the structure. An existing structure is located to side of the primary structure and there is limited space on the other side of the structure due to the lot shape. There is likely no location on the large lot that would not require a variance due to the primary structure location, which was initially constructed decades ago and prior to current regulations. 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 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: 1. Maintain the wooded screening of structures from neighboring properties to the maximum extent possible. 2. Obtain written

approval from the Fire Department that there is adequate clearance around the building in case of emergency.

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Scott Whalen

**Motion passed unanimously.**

**Agenda Item 9 – FC-08-24-42: Special Exception –** Applicant is requesting to change previous Special Exception FC-10-22-49 approval from 'real estate office' to 'office'. Allure Aesthetics & Wellness. 4932 Charlestown Road, New Albany, IN 47150 (22-05-08-600-044.000-007).

**Mr. Creevy-** Read Staff Report: The applicant is requesting a modification to the Special Exception previously approved for the property to allow a real estate office to operate at the above referenced property in a residential suburban zone (FC-10-22-49). The modification requested is to change the use from strictly real estate office to more generally professional office. The proposed user is a Health Care Practitioner known as Allure Aesthetics and Wellness which operates a medical spa treatment facility for aesthetic care. The building footprint and parking are not being modified. No additional renovations to the building are requested. The proposed user typically has 5 employees on site including 2 practitioners. Appointments last typically from 45 minutes to 1 hour. The modification would allow any generic use that would be classified as professional office and has similar use characteristics in terms of traffic, intensity, and function. Any modification of the site plan would require approval of the board but changes from one professional office use to another would not. Nearby land uses include the Autumn Hill, Cobblers Crossing, and Southern Estates subdivisions, a professional office, large church, assisted living, a medical services facility, and is within approximately 1,100 feet of professional offices at and near Cobbler's Station Office Park. Staff Findings: 1. The special exception WILL NOT be injurious to the public health, safety, morals, and general welfare of the community. The exception will not significantly impact the light, air, sound, or create a physical hazard to the community. The use as a professional office is low impact and consistent with nearby uses. Traffic volume for this use is relatively low and the property has direct access to a minor arterial class road (Charlestown Road). 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. The use as professional offices will not create physical hazards or nuisances to neighboring properties and a more specific type of professional office use has already been approved for the location. The type of use is consistent with existing commercial uses in the area. 3. The need for the special exception DOES arise from some condition peculiar to the property involved. Modification of a Special Exception requires a new Special Exception application as the only method available for approval. The property is peculiar in that it has been approved for a similar use in the past, is located on an arterial roadway, is not located in a subdivision, and there are a number of commercial and institutional uses in the immediate vicinity. 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 current zoning of the property does not allow commercial uses but a special exception for a more specific professional office has been approved. The proposal will allow similar uses in terms of form, function, and intensity. The location on a high volume roadway with nearby commercial and institutional uses indicate the best use for the property as commercial. 5. The approval of the special exception WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan. The approval will support local small business but will not significantly alter the character of the area. Additionally, it will continue to direct commercial development near existing commercial development in the area. Staff Recommendations: 1. Conditions required with previous approval (FC-10-22-49) remain in effect for this approval: A.

Landscape Screening is required between parking lot and public right of way and must fully screen vehicles from the public right of way (FCZO 5.13 –k.2). B. Provide additional landscape screening between parking lot and adjacent property consistent with FCZO 5.13 – k.2). C. A minimum of two deciduous or evergreen trees are required as a part of parking landscaping. D. The monument sign requires a permit from Building and Development and shall comply with FCZO 5.25 General Sign Standards and 5.27 Permanent On Premise sign standards. E. Entrance drive to be approved by County Engineer. 2. Provide approval or exemption statement for rehabilitation work from Indiana Department of Homeland Security Building Permitting Department (Residential to Commercial Conversion).

**Danny Short-** 2853 Plantation Court, Sellersburg, Indiana. Current property owner and representing applicant. The property is under contract with Mr. Tumulty. This was intended to be his real estate office but he merged his business with another and this location is not needed. Charlestown Road is a mixed use corridor and there are other medical offices within 1,000 feet of the property. Allure has agreed as part of their purchase agreement to install the landscaping standards. Traffic is a concern of all, recently the speed limit has been reduced to 35 mph and walking path is being installed on the other side of the road, preliminary traffic studies done and steps will be taken in future to cure some traffic issues.

**Jason Tumulty-** 5557 Limestone Creek Drive, Charlestown, Indiana. Applicant, has property under contract. Minimal impact to neighbors, they only have two practitioners. Turning lane starts before their entrance.

**Mr. White-** asked if anyone would like to speak in favor. No one came forward. Asked if anyone would like to speak in opposition.

**Patti Anderson-** 3011 Autumn Hill Court, New Albany, Indiana. Traffic is the biggest concern. The real estate office did not change the traffic much and does not think this business will change the traffic either. What prevents them from tearing down the house and building a larger building/business later on that will create a traffic hazard. Concerned about this property being rezoned.

**Mr. White-** asked if anyone else would like to speak in opposition. No one came forward.

**Mr. Creevy-** while this special exception modification will expand the allowed uses to other professional offices, which is a short list in our zoning ordinance, it does not allow any modifications to the site or building beyond what has already been approved. So if they wanted to tear down the building and build a new office, they would have to come back and get approval for that.

**Mr. Bibelhauser-** we did not change the zoning.

**Mr. Creevy-** correct. This is still a residential suburban zoned property with a use variance

**Mr. Bibelhauser-** Read the ballot. Docket FC-08-24-42, After careful review the Board finds that: 1. The special exception WILL NOT be injurious to the public health, safety, morals, and general welfare of the community because: The exception will not significantly impact the light, air, sound, or create a physical hazard to the community. The use as a professional office is low impact and consistent with nearby uses. Traffic volume for this use is relatively low and the property has direct access to a minor arterial class road (Charlestown Road). 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 because: The use as professional offices will not create physical hazards or nuisances to neighboring properties and a more specific type of

professional office use has already been approved for the location. The type of use is consistent with existing commercial uses in the area. 3. The need for the special exception DOES arise from some condition peculiar to the property involved because: Modification of a Special Exception requires a new Special Exception application as the only method available for approval. The property is peculiar in that it has been approved for a similar use in the past, is located on an arterial roadway, is not located in a subdivision, and there are a number of commercial and institutional uses in the immediate vicinity. 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 because: The current zoning of the property does not allow commercial uses but a special exception for a more specific professional office has been approved. The proposal will allow similar uses in terms of form, function and intensity. The location on a high volume roadway with nearby commercial and institutional uses indicate the best use for the property as commercial. 5. The approval of the special exception WILL NOT contradict the goals and objectives of the Floyd County Comprehensive Plan because: The approval will support local small business but will not significantly alter the character of the area. Additionally, it will continue to direct commercial development near existing commercial development in the area. The Board of Zoning hereby GRANTS the Petitioner's Special Exception at the meeting held on the 9<sup>th</sup> day of September, 2024. Approval by the Board is subject to the completion of the following conditions: 1. Conditions required with previous approval (FC-10-22-49) remain in effect for this approval: -Landscape Screening is required between parking lot and public right of way and must fully screen vehicles from the public right of way (FCZO 5.13-k.2) – Provide additional landscape screening between parking lot and adjacent property consistent with FCZO 5.13-k.2) – A minimum of two deciduous or evergreen trees are required as part of parking landscaping. – The monument sign requires a permit from Building & Development and shall comply with FCZO 5.25 General Standards and 5.27 Permanent On Premise sign standards. – Entrance drive to be approved by County Engineer. 2. Provide approval or exemption statement for rehabilitation work from Indiana Department of Homeland Security Building Permitting Department (Residential to Commercial Conversion).

**Motion:** Approve with Conditions

**Moved by:** Larry Bibelhauser

**Seconded by:** Victor Unruh

**Motion passed unanimously.**

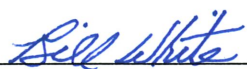
**Motion:** To Adjourn

**Moved by:** Guy Heitkemper

**Seconded by:** Victor Unruh

**Motion passed.**

Adopted this 16<sup>th</sup> day of October, 2024.

  
\_\_\_\_\_  
Chairperson

  
\_\_\_\_\_  
Attest