

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

19-W-VAR-15 DEVELOPMENT STANDARDS VARIANCE

Brad Lemay  
2632 E. Stalf Road

OCTOBER 22, 2019

AGENDA ITEM: 1

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**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential

Property area: 4,771± sq. ft.

The petitioner, contractor for the owner, is requesting a development standards variance for an encroachment into the required rear (street side) and side setbacks on the property located at 2632 East Stalf Road. The property is Lot 31 of the Cedar Beach Addition to Tri-Lakes Resort.

The petitioner has proposed a 60.4'x33.25' (outside dimensions) dwelling with attached garage to replace a recently demolished 16'x42'± dwelling. Per the submitted plot plan, the new dwelling would be located approximately 3.25' from the west property line at its nearest point and 3' from the east property line. The rear setback would be 10.25' from the right-of-way line (17' from edge of pavement). For reference, the previous structure was located approximately 6' from the right-of-way line, 4.5' from the west property line, and 20.5' from the east line. Because of the demolition of the dwelling, any legal nonconforming setbacks would be removed as well.

Since this lot has lake frontage, rear setback standards apply to the street side. The required minimum rear setback is 15' and side setback is 5', necessitating a request for a 4.75' rear variance and a 2' side variance.

Also note that the proposed dwelling may encroach into the floodplain. The petitioner has indicated intention to abide by the requirements of the flood code.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

**1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**

The proposed variances will not likely be injurious to the public health, morals, and general welfare as dwellings with encroachments such as the proposed exist throughout the zoning district. The proposed rear setback is greater than the previous structure and comparable to the road side setbacks of other properties along the street and throughout the LR district, and should not injure the public safety on the road or cause further safety issues. Also, reasonable encroachments on the road setback so as to decrease encroachment into the floodplain are usually favorable for protecting public health and safety.

The proposed reduced side setback may be a concern for public safety given the width of the lot. Prevention of fire spread and access to the property are major safety considerations. The Board should strive to enhance public safety where possible, especially in the densely developed pre-building code areas.

**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; and**

It is not expected that this variance will adversely affect the use and value of the area adjacent to the property as similar properties in the LR district have similar structures with encroachments. For example, the two properties to the west appear to enjoy nearly the same setbacks as the proposed.

**3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.**

The strict application of the Ordinance terms may or may not result in practical difficulties. The proposed dwelling width of 33.25' is derived largely from the width of a two-car attached garage plus an entry and living area of a reasonable width. While there is no specific requirement for a garage, parking of vehicles on the driveway would increase the necessary rear setback, pushing the dwelling farther into the floodplain, which is undesirable.

Further, the minimum requested side setback of 3' is due to the nonparallel lot lines; if the lot lines were parallel, both side setbacks would be 3.4'±. This would still require a variance, but a slightly reduced variance.

Date report prepared: 10/15/19

**BOARD OF ZONING APPEALS ACTION**

Findings of Fact Criteria

	<b>Deckard</b>		<b>Denihan</b>		<b>Lopez</b>		<b>Wilkinson</b>		<b>Wright</b>	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion: \_\_\_\_\_ By: \_\_\_\_\_ Second by: \_\_\_\_\_

	<b>Deckard</b>	<b>Denihan</b>	<b>Lopez</b>	<b>Wilkinson</b>	<b>Wright</b>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

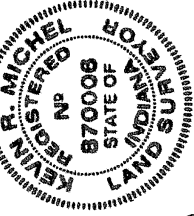
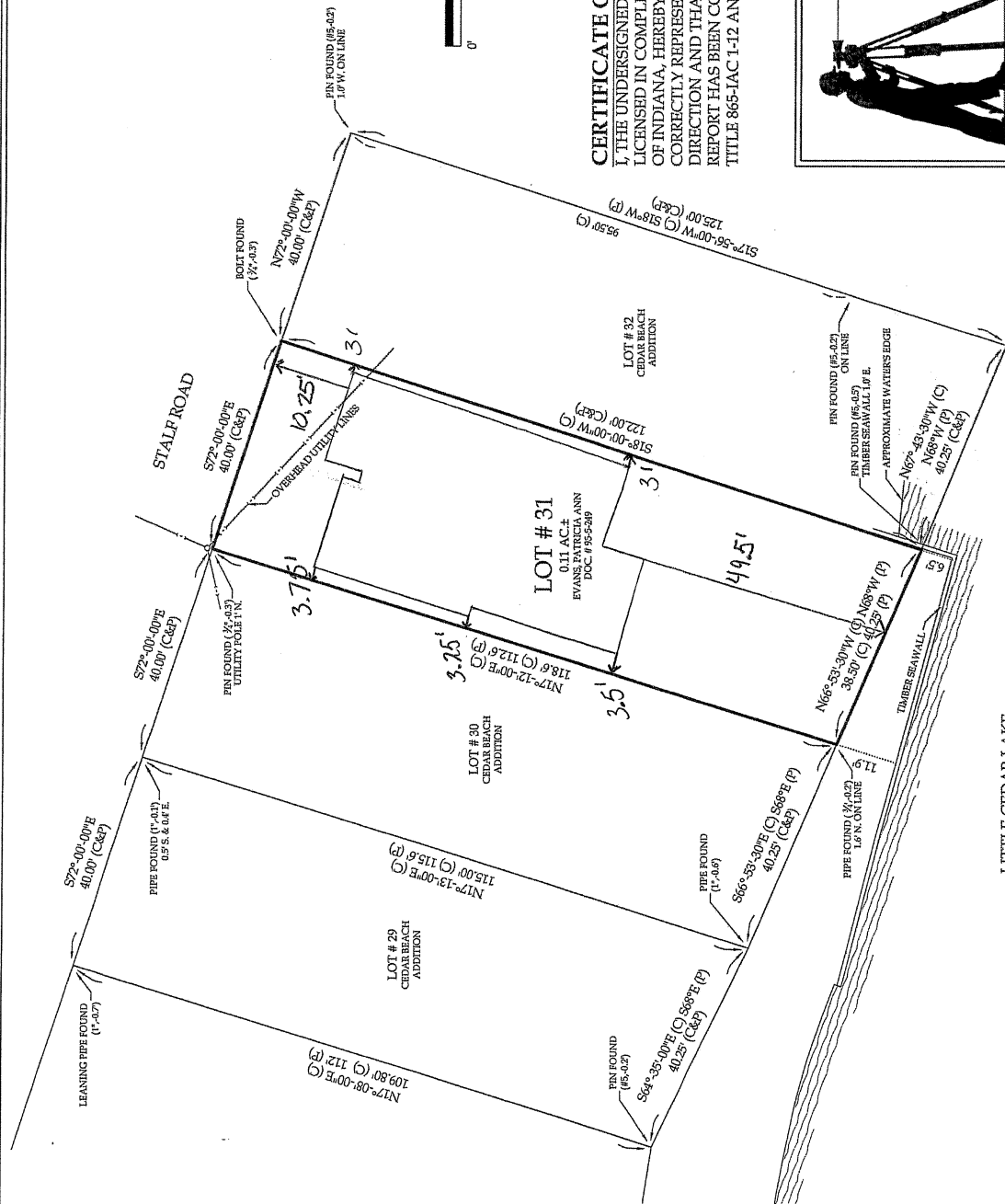
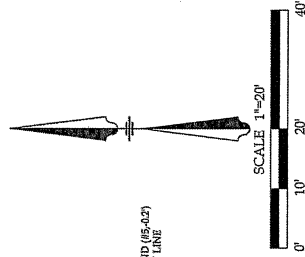
**LEGEND**  
 M = MEASURED  
 P = PLAT  
 X = WALKER MONUMENT

C = CALCULATED  
 R = RECORDED  
 X = WALKER MONUMENT

**PROPERTY ADDRESS**  
 2632 E Stalf Rd  
 Columbia City, IN 46725

**BASIS OF BEARINGS**

The basis of bearings for this drawing is a platted bearing of S72°-00'-00"E for the North line of Lot Number 31 in Cedar Beach Addition to Tri-Lake Resort, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.



**CERTIFICATE OF SURVEY**  
 I, THE UNDERSIGNED REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE HEREON PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTION AND THAT THIS SURVEY AND ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC 1-12 AND ALL OTHER AMENDMENTS THERETO.

*Kevin R. Michel*

**WALKER & ASSOCIATES**  
 112 WEST VAN BUREN STREET  
 COLUMBIA CITY, IN 46725

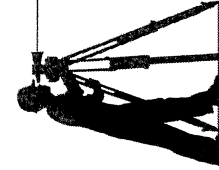
www.walkersurveying.net  
 E-mail: mail@walkersurveying.net

LOT NUMBER 31 IN CEDAR BEACH ADDITION TO TRI-LAKE RESORT,  
 WHITLEY COUNTY, INDIANA

FOR: **EVANS, PATRICIA ANN**

SCALE: 1"=20'  
 DATE: 8-9-2019  
 DRAWN BY: KRM  
 PAGE: 3 OF 3

DRAWING NUMBER  
**QU-165**



**LAND SURVEYING,  
 CIVIL ENGINEERING,  
 & LAND PLANNING**

LITTLE CEDAR LAKE

**RECEIVED**  
**OCT 15 2019**

SQUARE FOOTAGE	
1ST FLOOR	1461
2ND FLOOR	000
GARAGE	376
BASEMENT	000
TOTAL SQ. FT.	1837
FRONT PORCH	14
RR COV. PORCH	93

NOTE: ... COPYRIGHT 2019 IDEAL SUBURBAN HOMES INC. ...  
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 OR THE MATERIALS USED IN THE CONSTRUCTION OF THE HOUSE EXCEPT BY IDEAL  
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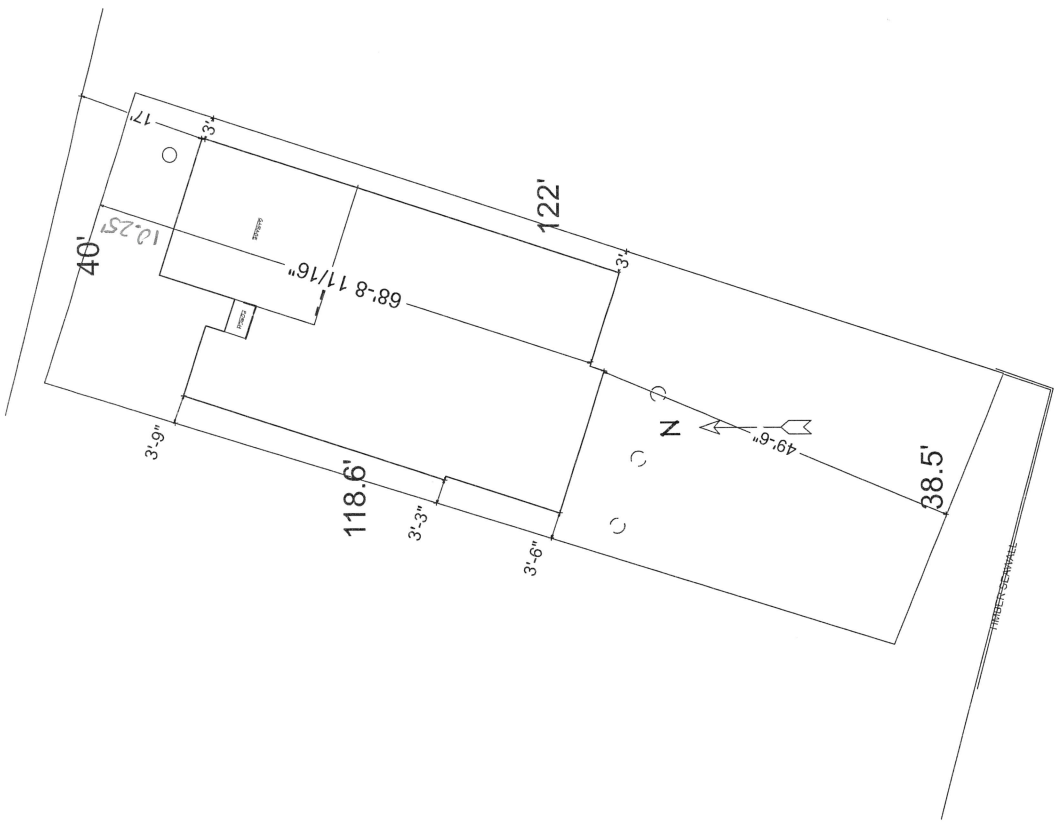
SHEET TITLE: SITE PLAN  
 JOB ID: 0019EVANS

SCATTERED LOT  
 TRI LAKES  
 INDIANA, 46725  
 BUILT FOR: EVANS



DRAWINGS PROVIDED BY:  
 IDEAL BUILDERS  
 422 S. 13TH STREET  
 DECATUR IN 46733  
 260-724-9131  
 DATE: 10/11/2019  
 SCALE: 1/16"=1'  
 SHEET: A-6

NOTE: FINISHED SQUARE FOOTAGE CALCULATIONS FOR THIS HOUSE WERE BASED ON PLAN DIMENSIONS ONLY AND MAY VARY FROM THE FINISHED SQUARE FOOTAGE OF THE HOUSE AS BUILT.

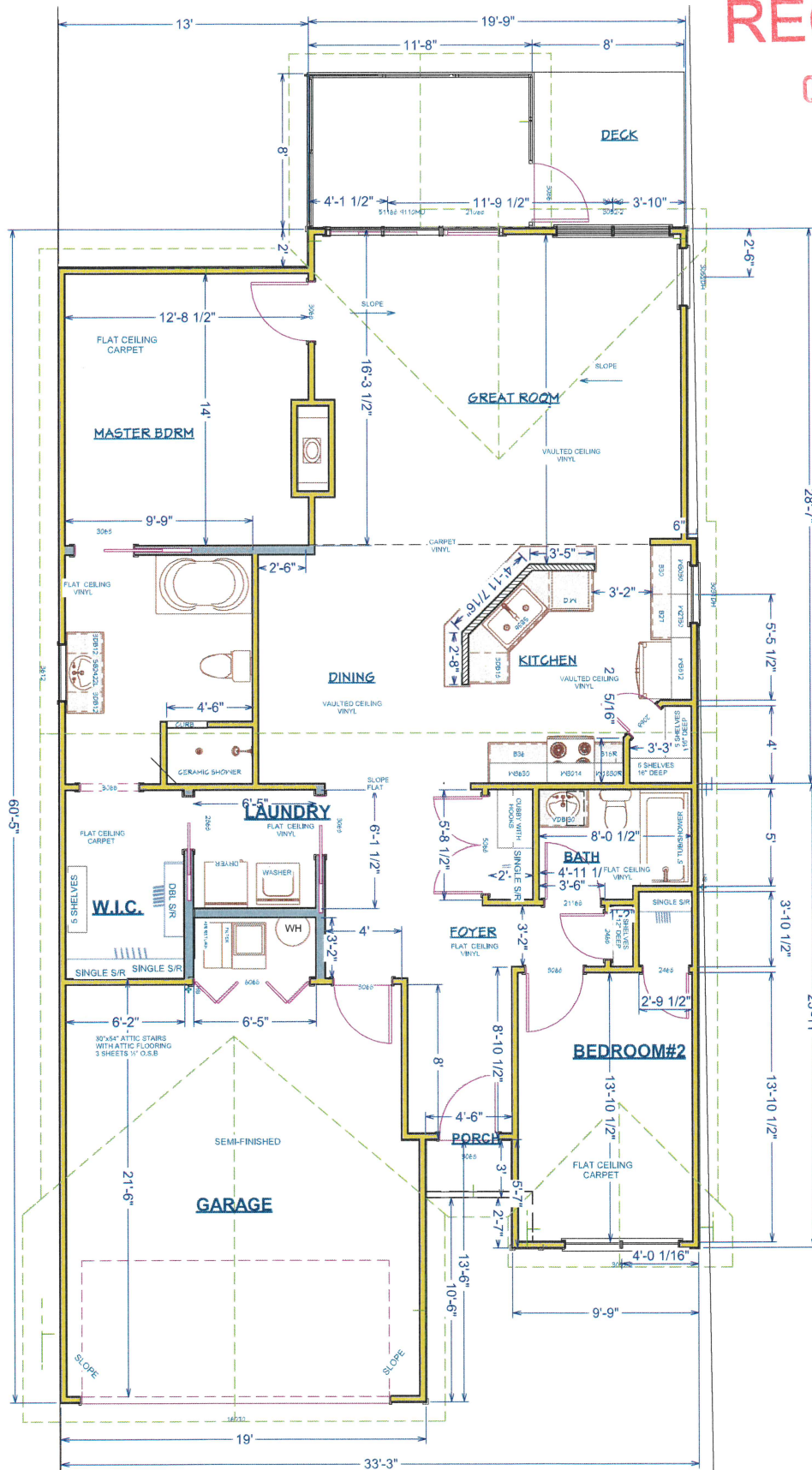


LITTLE CEDAR LAKE

1st Floor

RECEIVED

OCT 16 2019



\*NOTE: FINISHED SQUARE FOOTAGE CALCULATIONS FOR THIS HOUSE WERE BASED ON PLAN DIMENSIONS ONLY AND MAY VARY FROM THE FINISHED SQUARE FOOTAGE OF THE HOUSE "AS BUILT".

DRAWINGS PROVIDED BY: IDEAL BUILDERS 522 S. 13TH STREET DECATUR IN 46733 260-724-9131		PROJECT DESCRIPTION:	SCATTERED LOT TRI LAKES INDIANA, 46725 BUILT FOR: EVANS	SHEET TITLE: MAIN FLOOR PLAN	<p>*** COPYRIGHT 2018 IDEAL SUBURBAN HOMES INC.™</p> <p>THE ORIGINALS AND COPIES OF THESE PLANS, DRAWINGS AND/OR RENDERINGS, INCLUDING ANY SPECIFICATIONS ARE COPYRIGHTED. ALL SUCH PLANS, DRAWINGS, AND/OR RENDERINGS INCLUDING THE SPECIFICATIONS AND THE COPYRIGHT ARE THE PROPERTY OF IDEAL SUBURBAN HOMES INC. IT IS FURTHER ACKNOWLEDGED THAT SUCH PLANS, DRAWINGS, RENDERINGS AND SPECIFICATIONS MAY BE USED FOR THE ABOVE DESCRIBED PROJECT ONLY AND THAT REPRINTING, PHOTOCOPYING, TRACING OR OTHER MEANS OF REPRODUCTION OF THE DOCUMENTS BY ANYONE FOR CONSTRUCTION OR ANY OTHER PURPOSES MAY NOT BE DONE EXCEPT BY IDEAL SUBURBAN HOMES INC. EXPRESS WRITTEN PERMISSION.</p>
		DATE:	9/17/2019	SCALE:	
SHEET:		A-1		<p>FRONT PORCH 14' 1837</p> <p>TOTAL SQ. FT. 1837</p> <p>RR COV. PORCH 93</p>	

SQUARE FOOTAGE:

1ST FLOOR	1481
2ND FLOOR	000
GARAGE	376
BASEMENT	000
TOTAL SQ. FT.	1837

