

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

22-W-VAR-23 DEVELOPMENT STANDARDS VARIANCE

Jim & Susan J. Heimann

1328 E State Road 14

SEPTEMBER 27, 2022

AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture

Property area: 1.949 ± acre

The petitioner, owner of the subject property, is requesting a development standards variance for an encroachment into the required side setback on the property located at 1328 E State Road 14, in Section 12 of Washington Township. The dwelling on the property was destroyed by fire and demolished earlier this year.

The petitioner has proposed to construct a new home in approximately the same location, but they plan to construct a one-story home instead of the previous two-story building. This will change the dimensions of the footprint of the new structure. Because of the changed dimensions and intention to utilize the existing driveway and pool and to limit the removal of existing trees to the north and west, the west side setback is proposed to be reduced to 15'.

So, the proposed structure would result in a 10' variance from the 25' required west side setback.

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 variance will not likely be injurious to the public safety, health, and morals as the proposed setback generally matches the setbacks of existing structures in the area. General welfare may be injured if practical difficulties specific to the property are not found.

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 value of the area adjacent to the property as the surrounding properties enjoy similar 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.

Date report prepared: 9/15/22

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

	Denihan		Lopez		Wilkinson		Wolf		Wright	
	<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: Grant
 Grant w/conditions
 Deny

By:

Second by:

Vote:	Denihan	Lopez	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



92-09-01-000-301.900-013

92-09-01-000-202.000-013

S 150 E

S SR 9

14

9

E SR 14

92-09-12-000-305.900-013

92-09-12-000-101.000-013

92-09-12-000-409.000-013

92-09-12-000-203.000-013

92-09-12-000-202.000-013

Rosen,
James A Jr

Leslie,
Benjamin W

Hauptert, Dale L
Revocable Trust
Agreement & Iom
Family Farms

Winebrenner,
Richard E
& Carol J

Winebrenner,
Richard E
& Carol J

Heimann, Jim
& Susan J

Ritschard,
Calvin D &
Cheryl A

Wigent, David
A & Jerry A

ESR 14

Simmons,
Wallace E
& Martha

Northern Indiana
Public Ser Co Attn:
Property Taxes

Fury, Gregory
B & Mary O E



DATE: _____
 SCALE: 1/4"=1'-0"
 DATE: 7/21/2022
 SHEET: 1

New Home

Doit Best McCORD'S
 2865 East Market St., Logansport, In 46947
 Phone: 574-722-5200
 Prepared by: Mark Roeske
 Email: mroeske@mccordsdoitbest.com

NUMBER	DATE	REVISIONABLE	
		REVISION BY	DESCRIPTION



**WHITLEY COUNTY DRAINAGE BOARD
ACTION ON CONSENT FOR PERMANENT STRUCTURES**

The following is a record of the action taken by the Whitley County Drainage Board on a petition to allow permanent structures to be constructed, installed and maintained over, under and/or within the statutory right-of-way of a regulated drain as permitted by IC 36-9-27-33(d).

Date of Board Meeting: **Monday, September 19, 2022**
 Place of Board Meeting: Whitley County Government Center
 Name of Applicant: **Jim & Susan Heimann**
 Property Owner Name: **Jim & Susan Heimann**
 Address of subject property: **1328 E State Road 14, Columbia City, IN 46725**
 Legal Description and Parcel Number of subject property: **N Mid Pt W2 NE4 NW4 S12 T30 R9 1.949A
 92-09-12-000-406.900-013**

Name and number of affected regulated drain: **MCCOY W 423-000B**
 Location of portion of regulated drain subject to proposed consent: **Requesting to build new home on same footprint of previous home that was destroyed by fire being a minimum distance of fifty (50) feet from the MCCOY W 423-000B county regulated drain.**

- Consent **denied** for the following reasons:
- Consent **granted** subject to the following terms and conditions:

- This consent is limited to the portion of the drain easement described above.
- This consent is limited to the permanent structure(s) described in the following table and such structure(s) shall be no closer to the drain than the minimum distance(s) described below (measured from the center of a tile drain and from the top edge of the nearest bank of an open drain):

Description of Permanent Structure(s)	Minimum Distance
New Home	50'

- Unless otherwise required by the conditions of this consent, the size and location of the approved structure(s) must not be materially different from that described in the application, any materials or drawings submitted with the application or any other information provided to the Board by the applicant.
- This consent is subject to the condition that neither Whitley County, nor the Drainage Board, nor any of their officials or employees, shall be liable for any damages to the approved structures or improvements, including any damages caused by any repair, maintenance, or reconstruction work on the drain. The property/structure owner shall be responsible for the costs to restore any approved permanent structures removed by the Board in connection with the Board's reconstruction or maintenance of the drain.
- The structure shall not interfere with or cause any obstruction to the drainage improvements.
- Other conditions:
- Placing (or keeping) the approved structure or improvement within the statutory right-of-way constitutes the agreement of each owner and future owner to the foregoing terms and conditions. "OWNER" refers to the owner of the approved structure.
- Structure must be placed a minimum of four (4) feet under a tile and a minimum of six (6) feet under the natural bottom of any drain.
- ENGINEER must be notified 24 hours prior to installation and installation must occur during normal business hours at (260) 248-3107.

Whitley County Drainage Board by:

 Theresa Baysinger