

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

23-W-VAR-6 DEVELOPMENT STANDARDS VARIANCE
Jonathan & Deanon Morales
7486 N. Etna Road

APRIL 25, 2023
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: GC, General Commercial
Property area: 11,026 sq. ft. (0.258± acre)

The petitioners, owners of the subject property, are requesting a development standards variance for an encroachment into the required front setback at 7486 N. Etna Road for new construction of a dwelling to replace an existing dwelling due to fire damage. The property is located on the east side of Etna Road, 140 feet south of 750 North, in section 35 of Etna Troy Township, on Lot 11 of the Original Plat of Etna.

The proposed front building line will remain the same as the existing home. However, by changing the location and footprint, the legal nonconforming status is lost, and it triggers the need for a variance.

The new location would shift south and result in the north side yard setback being in conformance with the current code and increase the distance from the neighboring structure to the north. The proposed and required setbacks are shown in the below table, with the front being the only requiring a variance:

	Proposed	Minimum	Variance
North (side)	16'	10'	NA
East (rear)	80'	20'	NA
South (side)	16'	10'	NA
West (front)	30'	40'	10'

Also, note that single-family dwellings are permissible as special exceptions under the GC zoning, but the existing dwelling does not have. So, the existing dwelling has been a legal nonconforming use. This legal nonconformance status is planned to be retained as it is permissible under the requirements of §9.5(F) as the use has not been discontinued in excess of two years.

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 setbacks generally match the setbacks of existing structures in the area, which frequently have legal nonconformances or variances. 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 use or value of the area adjacent to the property as the variance will permit the reconstruction of a new dwelling approximately in the same location as an existing dwelling but with greater zoning compliance. As the construction is otherwise a new investment in the area, the value of the surrounding area may actually be positively affected.

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 likely will result in practical difficulties. The siting of the new dwelling is restricted from being moved to the east due to the location of its septic system and the setback required by the Health Department.

Date report prepared: 4/17/23

BOARD OF ZONING APPEALS ACTION

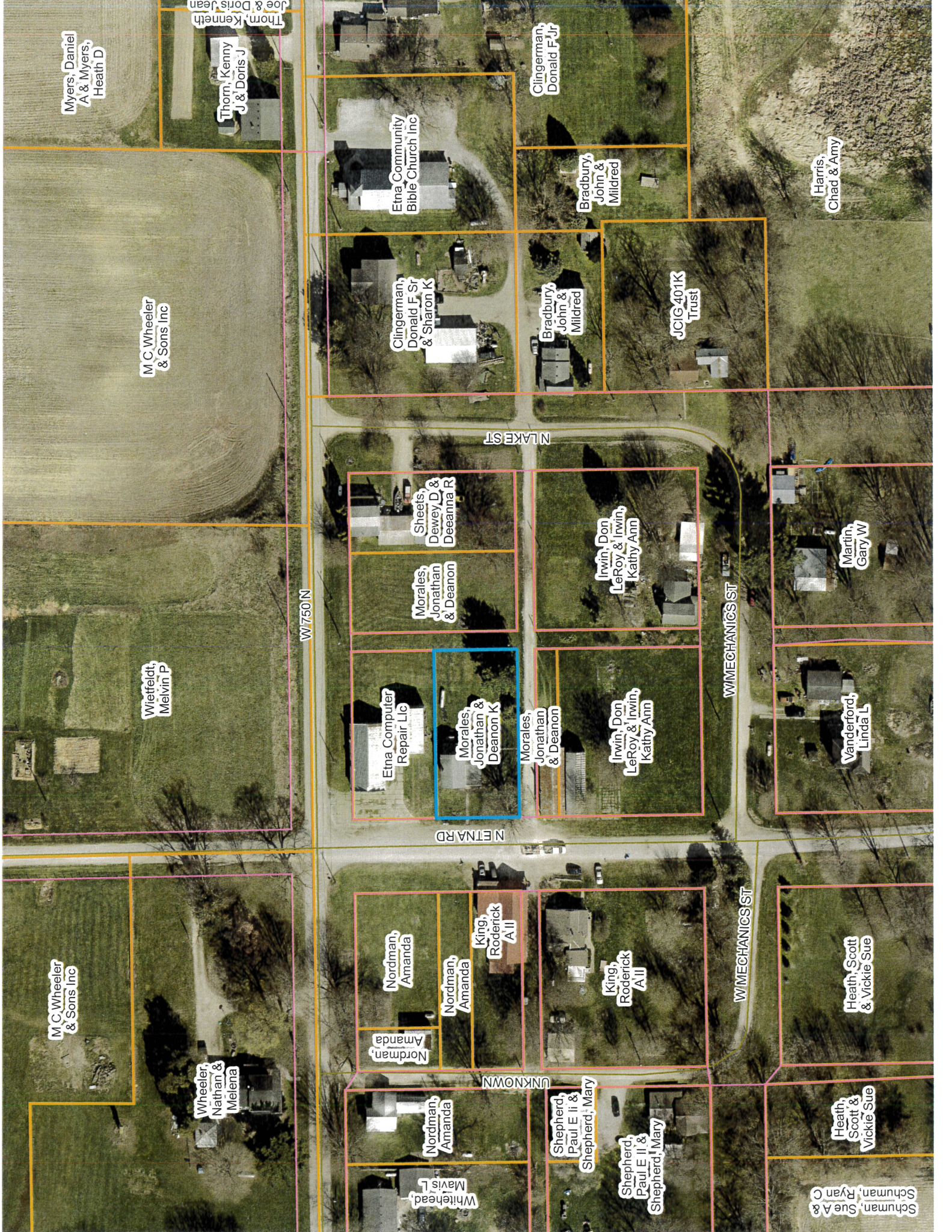
Findings of Fact Criteria

	Green		Sheiss		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:	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Myers, Daniel
A & Myers,
Heath D

Thorn, Kenny
J & Doris J

M.C. Wheeler
& Sons Inc

Etna Community
Bible Church Inc

Clingerman,
Donald F. Sr
& Sharon K

Clingerman,
Donald F. Jr

Bradbury,
John &
Mildred

Harris,
Chad & Amy

N LAKE ST

Sheets,
Dewey D &
Deeanna R

Morales,
Jonathan
& Deanon

Irvin, Don
LeRoy & Irvin,
Kathy Ann

Martin,
Gary W

Wietfeldt,
Melvin P

W 750 N

Etna Computer
Repair Lic

Morales,
Jonathan &
Deanon K

Morales,
Jonathan
& Deanon

Irvin, Don
LeRoy & Irvin,
Kathy Ann

Vanderford,
Linda L

WMECHANICS ST

NETNARD

M.C. Wheeler
& Sons Inc

Wheeler,
Nathan &
Melena

Nordman,
Amanda

Nordman,
Amanda

King,
Roderick
All

King,
Roderick
All

Heath, Scott
& Vickie Sue

WMECHANICS ST

Whitehead,
Mavis L

Nordman,
Amanda

Shepherd,
Paul E II &
Shepherd, Mary

Shepherd,
Paul E II &
Shepherd, Mary

Schuman, Sue A &
Schuman, Ryan C

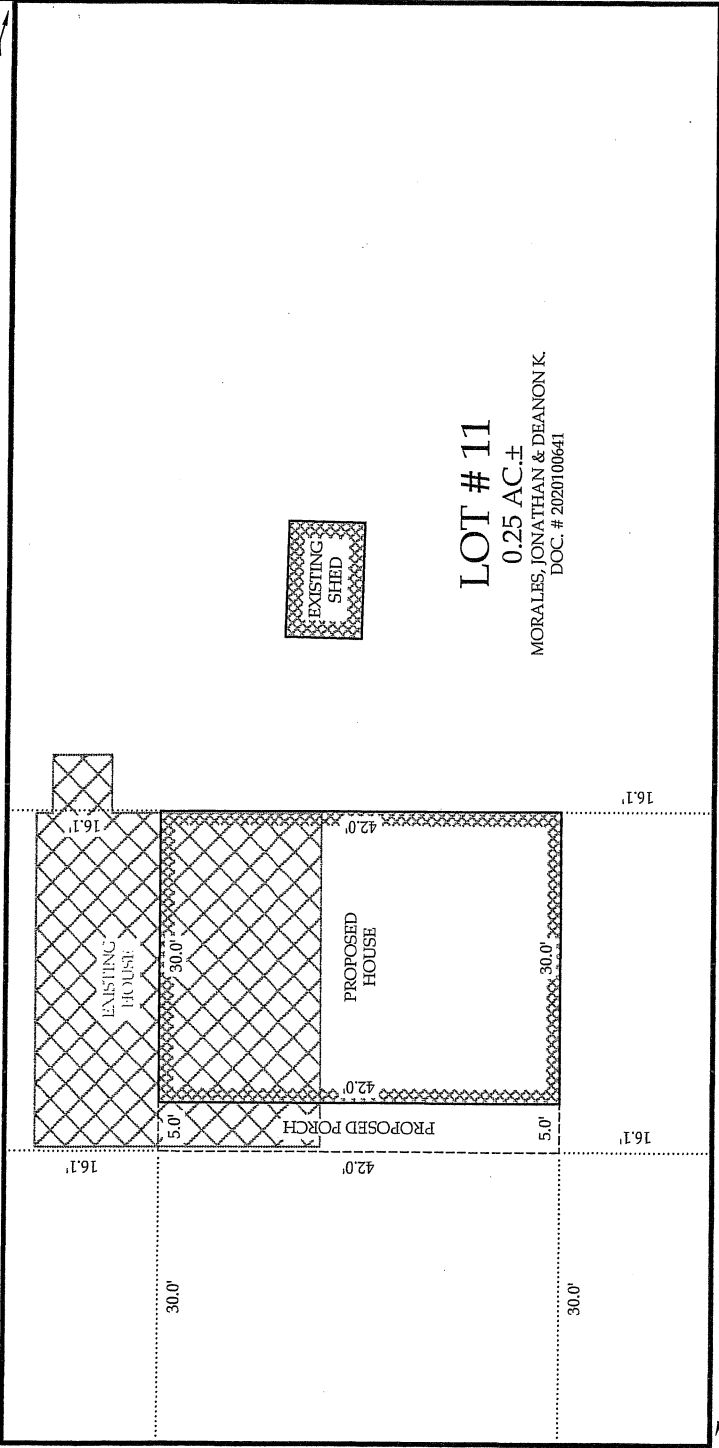
Heath, Scott &
Vickie Sue

UNKNOWN

307'-01"-43"E (C)
148.50' (C&P)

LOT # 13
ORIGINAL
PLAT

500°-07'-26"W (C)
74.25' (C&P)
16.5' ALLEY
(UNIMPROVED)



ETNA ROAD
(PLATTED COLUMBIA STREET)
N00°-07'-26"E (C)
74.25' (C&P)

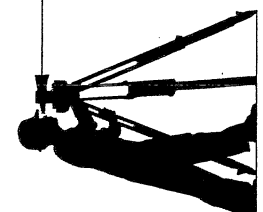
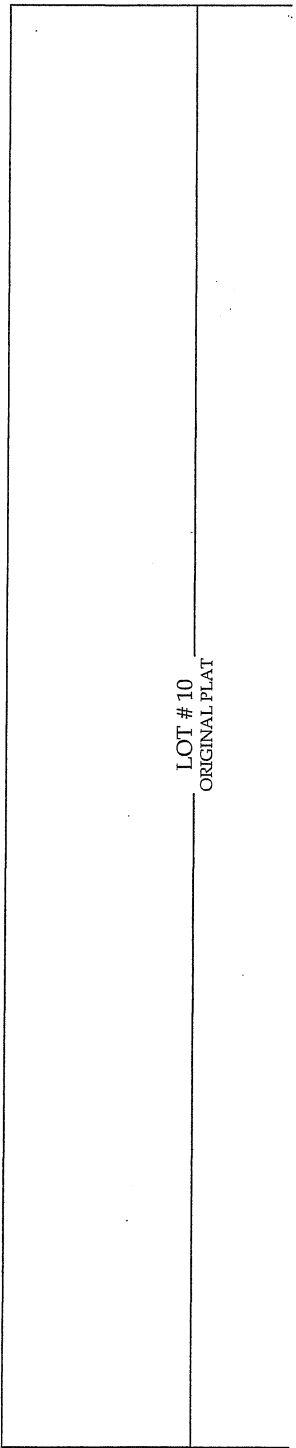
LOT # 11
0.25 AC.±
MORALES, JONATHAN & DEANON K.
DOC. # 2020100641



N89°-51'-45"W (C)
148.50' (C&P)

16.5' ALLEY

LOT # 16
ORIGINAL
PLAT



WALKER & ASSOCIATES

EST. 1984
112 WEST VAN BUREN STREET
COLUMBIA CITY, IN 46725
Phone: (260) 244-3640
Fax: (260) 244-4640
www.walkersurveying.net
E-mail: mail@walkersurveying.net

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

LOT NUMBER 11 IN THE ORIGINAL PLAT OF THE TOWN OF ETNA,
WHITLEY COUNTY, INDIANA

FOR:
MORALES, JONATHAN & DEANON K.

SCALE: 1"=20'	DRAWN BY: RDP	DRAWING NUMBER
DATE: 3-14-2023	PAGE: 1 OF 1	CI-133 "A"