

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

23-W-VAR-8 DEVELOPMENT STANDARDS VARIANCE
Andrew D & Trisha D. Bills
2699 E. Beech Ave.

APRIL 25, 2023
AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 0.344 ± acre

The petitioners, owners of the subject property, are requesting a development standards variance for an encroachment into the required front setback at 2699 E. Beech Ave. The property is located on the east side of Beech Avenue, 350 feet east of Hall Street, in Section 12 of Thorncreek Township, and on Lots 4 & 5 of North Shore Addition.

The petitioner has proposed to construct a new residence on the property due to the previous house being heavily damaged during last year's storm. The new structure will be in a similar location to the old dwelling, but the removal of the structure removes the legal nonconforming setback. There is a legal drain tile that has been found to run north-south through the center of the lot.

The proposed request is for a 2'± front setback along the Beech Ave. frontage, resulting in a requested 33'± variance. The proposed and required setbacks are shown in the below table:

	Proposed	Minimum	Variance
North (side)	NA	10'	NA
East (front)	70'+	35'	NA
South (side)	NA	10'	NA
West (front)	2'	35'	33'

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. Additionally, while this is an encroachment into a front setback along a street, this is the last house on the street, which should mitigate any impacts on the traffic safety or accessibility along the street.

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 at least three of the surrounding properties enjoy similar setbacks as the proposed, and it is essentially reusing a long-established setback.

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 does result in practical difficulties. The drain tile located in the center of the lot, combined with the topography of the lot, prevents shifting the new structure eastward, despite the lot having sufficient room to comply with both required setbacks. Additionally, the existing accessory structures create another difficulty if the petitioner were to attempt to orient the new structure parallel to the street and drain tile.

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: _____

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



Reffer, Stanley
E Revocable
Trust

Natural
Resources

Young, Cary
M & Lori A

Hochstetler, Family
Revocable Trust

Spreen,
Mark E

Eugene A Jr
Loretta M &

Childers,
Loretta M &

Sordelet,
Teresa

Anderson,
Lonny L

Jannque, Danny Ray
Grove, Jamie Sue &
Datton, Lillian Faye

Parker, William
B & Terri L
Living Trust

Miller, Trilakes Shriner
Michelle
Maple Grove

Richardson,
Jonathan
& Julie

Mangan,
Becky K

Asher,
Sarah J

Jackson,
Madalynn

Pittenger,
Dianne L

Shearer,
Thomas E &
Brenda M

Young, Cary
M & Lori A

Bills, Andrew
D & Trisha D

Kochanowski,
Gerica J

Storm, Todd A
& Kimberly A

Begue,
Suzette M

Bogdon,
Bridget E

Robert P
Maly

Wallace, Brian Joseph
& Jennifer Kay

West, John
G & Emily J

West, John
G & Emily J

West, Paul
E & Amy V

Meyers,
Stephanie

Lang, Robert
L Jr, &
Elizabeth D

Winebrenner,
Marjorie

Winebrenner,
Marjorie

Lang, Robert
L Jr, &
Elizabeth D

Fox, Eric R

Gill, Tina M

Zeleznik,
Lami J

Shafer, Charles
E & Crystal

Patterson,
Wes & Dulcey

Biers, David
A & Jean L

Anolin,
Ashlee

Stone,
Nichole Renee

Hartman,
Gary &
Nancy

Hartman,
Gary &
Nancy

Puver, Michael J
& Sandra J

Grube,
Todd

West, Paul
E & Amy V

West, John
G & Emily J

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& Jennifer Kay

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Natural
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E Revocable
Trust

Thorncreek
Township

N FISH HATCHERY RD

N WILLOW AVE

N HALL ST

E BEECH AVE

E ELEM AVE