

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

23-W-VAR-12 DEVELOPMENT STANDARDS VARIANCE
Gregory Saylor
5552 N. Willow Avenue

JUNE 27, 2023
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 5,750± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front and side setbacks on their property located at 5552 N. Willow Avenue in Section 12 of Thorncreek Township. The property is Lot 43 of the Highland Park Addition to Tri-Lake Resort (recorded in 1910). The property is currently improved with a residence that was constructed in 1999. The south-facing open porch was constructed as part of the residence in 1999 and a reconstruction of it was permitted in 2021.

The petitioner has proposed to construct a 9'x26' deck on the southeast corner of the house. While the house and porch encroach into the 35' minimum front setback, that setback was permitted by use of the averaging rule in §5.03(D). The proposed deck would align along the same front setback and would have an approximate 2' east side setback.

As the minimum side setback for the LR district is 5', the proposed deck will require a 3' variance.

Based on the Best Available map information and topography, the structure would be located outside the regulatory floodplain.

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 health and morals as improvements with encroachments such as the proposed exist throughout the zoning district without apparent injury.

Being a side setback encroachment, the encroachment may inhibit emergency access around the house. However, since the house does enjoy frontages on both Willow Ave and Elm Ave, there should be more than average accessibility. The proximity of the deck to the property line may warrant heightened building code requirements. This combination of factors would likely indicate no injury to the public safety.

The 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 and use of the area adjacent to the property as similar properties in the LR district have similar structures with encroachments, nor would the proposed setback impair access along the street or to the surrounding properties.

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. Due to bluff the house sets on, the south porch is more than 4' above grade. The proposed porch would connect the existing porch to the grade along the east side of the house, which would provide easier access to the porch and an additional access route into the house.

That said, the proposed width of 9' may be considered self-imposed, as a slightly narrower deck of 6'± in width may achieve the same goals and would minimize or eliminate the need for a variance.

Date report prepared: 6/20/23

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>					



Guisinger, Carl W & Guisinger, Nancy J

Guisinger, Carl W & Nancy J

Tri Lakes Baptist Church Inc

Webber, Mark A & Amanda

Gangwer, Michael H

N CENTER ST

Department Of Natural Resources

Guisinger, Carl W & Nancy J

Archer, Brenton E

Archer, Brenton E

Archer, Brenton E

Lund, David K & Beverly G

Lund, David K & Beverly G

Anderson, Tara M

Zink, Joe M & Barbara A

Bunn, Ralph E

Saylor, Gregory R & Dee

Daring, April R

Pizzolanti, Michael J

Byers, William D

N WILLOW AVE

Byers, David A & Jean L

Byers, William D

Anglin, Ashlee

Stone, Nichole Renee

Hartman, Gary & Nancy

Hartman, Gary & Nancy

Pulver, Michael J & Sandra J

Grube, Todd

N HALL ST

West, Paul E & Amy V

West, John G & Emily J

Meyers, Stephanie

West, John G & Emily J

Wallace, Brian Joseph & Jennifer Kay

Bogdon, Bridget E

Maly, Robert P

E SHIRLEY AVE

E WILCKEN RD

Murray, Gregory P

Mccormick, Corey M

Carlisle, Brent & Lauren K

Flaugh, Donald J

Leazier, Donald E

Zelt, Kathy

Ferguson, Adam & Kimberly

Bunn, Ralph E

ELM AVE

Patterson, Wes & Dulcey

Klotz, Todd & Kayla

Zeleznik, Lani J

Shaffer, Charles E & Crystal

Gill, Tina M

Fox, Eric R

Lang, Robert L Jr & Elizabeth D

Thornecreek Township

Winebrenner, Marjorie

Winebrenner, Marjorie

E BEECH AVE

ANDERSON SURVEYING, INC.

Registered Professional Engineers and Land Surveyors
Indiana Land Surveying Firm Identification Number: 29A

1324 Henry Avenue
Fort Wayne, IN 46808
Phone: (260) 483-1724
Fax: (260) 482-6855
Toll Free: (888) 483-1724

1947 E. Schug Road
Columbia City, IN 46725
Phone: (260) 691-3425
Fax: (260) 482-6855

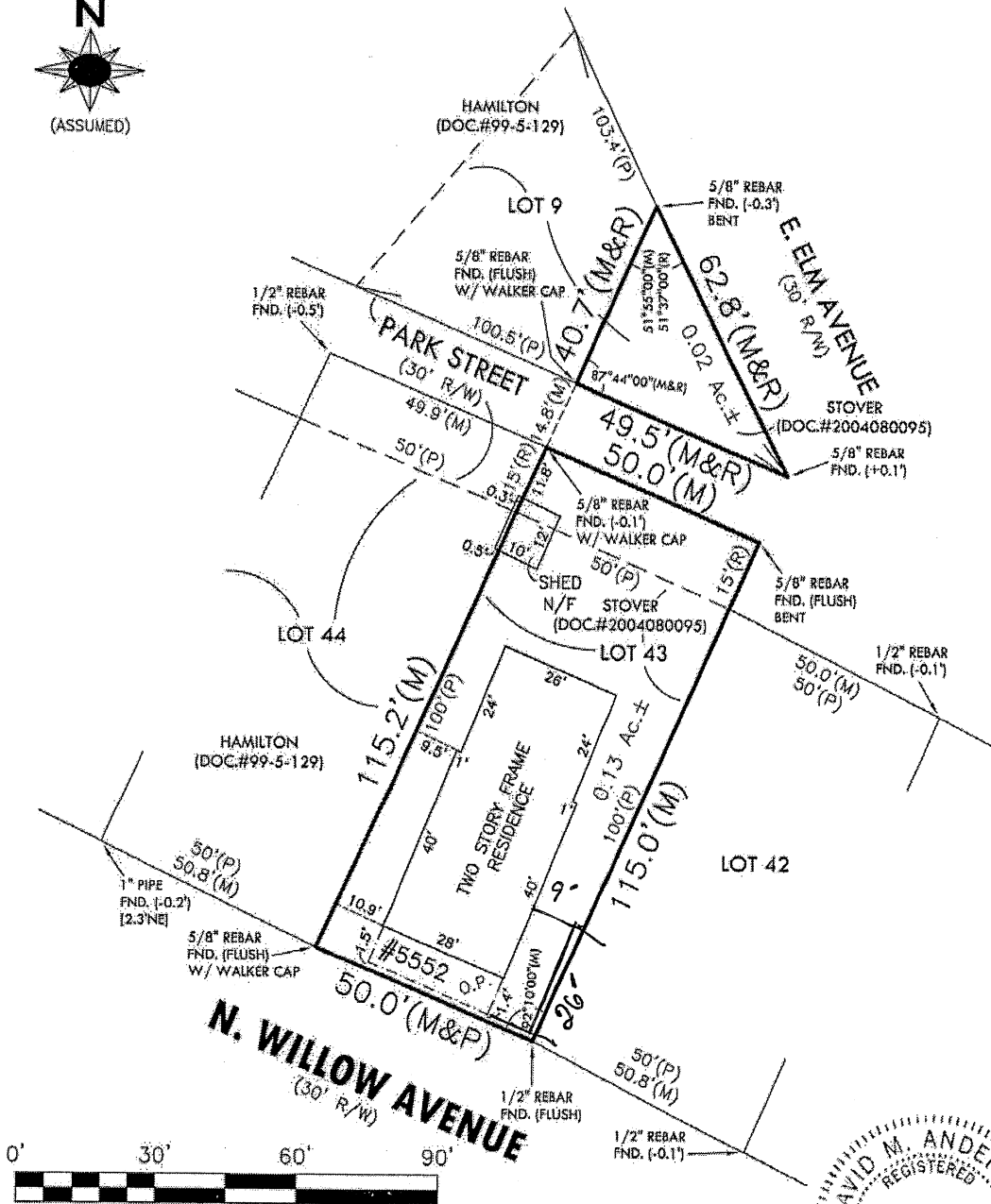


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PLAT OF SURVEY (Page 1 of 2)

(AUGUST 2016 / 16-08-110)

This document is a retracement survey of a parcel of land located in Whitley County, Indiana.
SEE PAGE 2 OF 2 FOR THE SURVEYOR'S REPORT AND LEGAL DESCRIPTION.



I hereby certify that the above Plat of Survey was prepared under my direct supervision and that to the best of my knowledge and belief was executed in accordance with the requirements of the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12 of the Indiana Administrative Code.

Fieldwork completed on the 8th day of AUGUST, 2016.

Certified this 11th day of AUGUST, 2016.

Prepared exclusively for: STOVER / SAYLOR

Survey Number: 16 - 08 - 110

David M. Anderson, P.E., L.S.