

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

23-W-VAR-17 DEVELOPMENT STANDARDS VARIANCE
Robert & Heather Lonergan
5770 W. 700 South

**AUGUST 22, 2023
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture
Property area: 1.906± acre

The petitioner, owner of the subject property, is requesting a development standards variance for encroachment into the front setback and platted building line for construction of a new accessory structure located at 5770 W. 700 South in Section 11 of Cleveland Township. The property is currently improved with a residence; a legal drain runs through the middle of the parcel.

The petitioner proposes to construct a 30'x30' detached garage to the southeast of the existing home, with a front setback of approximately 10'. Being that the minimum front setback is 40', the requested variance is 30'.

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 or morals, as outbuildings with setbacks such as the proposed exist throughout the zoning district without injurious effect. A 10' setback is likely sufficient to maintain a safe distance from the road and driveway. However, as with any variance, the general welfare may be injured by degradation of the effectiveness of the zoning code if there are not site-specific difficulties for the variance.

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 properties throughout the AG district have similar accessory structures. Use should also not be affected, due to the distance of the proposed structure from adjacent properties and maintaining what should be an adequate front 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 probably results in practical difficulties. The 75' legal drain easement virtually eliminates locating any building to the west side of the residence. Placement to the north of the house is constrained by the impracticality of installing a driveway. Note that the Drainage Board could consider an encroachment into the easement, so this Board should weigh whether a zoning variance or a drainage encroachment would be more appropriate for this request.

Date report prepared: 8/15/23

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

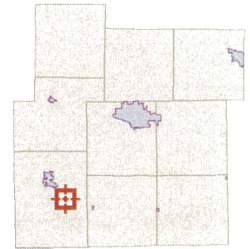
By:

Second by:

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



Overview



Legend

- Address Points
- Corporate Limits
- Parcels
- State Highways
- Road Centerlines
- Rights-of-Way
- Lakes
- County Zoning**
- Agricultural
- General
- Commercial
- Intensive Use
- Industrial
- Park/Manufacturing
- Lake Residential
- Manufactured Home Park
- PUD
- Rural Residential
- Village Commercial

| | | | | | |
|------------------------------|--|---------------------|--|----------------------|--|
| Parcel ID | 92-08-11-305-001.000-001 | Alternate ID | 92-08-11-305-001.000-001 | Owner Address | Loneragan, Robert L & Heather L 5770 W 700 S South Whitley, IN 46787 |
| Sec/Twp/Rng | -- | Class | RESIDENTIAL ONE FAMILY DWELLING ON A PLATTED LOT | | |
| Property Address | 5770 W 700 S South Whitley | Acreage | 1.906 | | |
| District | Cleveland Township | | | | |
| Brief Tax Description | LOT 1 GILSON ADDITION 1.906A (Note: Not to be used on legal documents) | | | | |

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Socha, Dave
A & Terri A

Long, Chris L

Loneragan,
Robert L &
Heather L

Arnold, Jason
A & Annette J

W 700 S

Austin,
Richard A &
Corine A

Schmidt,
Arthur J

Long, Chris L

Crawford, Dale
Eugene & Monna

Crawford,
Ryan A &
Nicki A

Long,
Chris L

Long, Chris L

