

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

23-W-VAR-18 DEVELOPMENT STANDARDS VARIANCE

William & Tracy Burdine

6404 S. 950 West

AUGUST 22, 2023

AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture

Property area: 8.891± acre

The petitioner, owner of the subject property, is requesting a development standards variance for encroachment into the front setback for construction of a deck. The property is located at 6404 South 950 West in Section 7 of Cleveland Township.

The petitioner proposes to construct a 10'x20' deck on the east façade of the residence. The existing setback of the house is 34.4'± from the right-of-way line (54.4' from the road centerline), with an 8' deep stoop porch that would be approximately 26.7'± from the right-of-way. As proposed, the deck would have a setback of 24.4'±. The minimum front setback being 40', the requested encroachment is 15.6'.

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 decks and porches with setbacks such as the proposed exist throughout the zoning district without injurious effect. A 24' setback is likely sufficient for an open deck to maintain a safe distance from the road, especially as the existing porch and landscaping already extend roughly the same distance into the setback. 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 the surrounding area is largely unimproved or has similar encroachments. Use should also not be affected, due to the distance of the proposed deck 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 may or may not result in practical difficulties. The property is constrained by the river bluff and floodplain along the north side of the residence, which precludes the location of any structure on that side. The location and internal configuration of the legal nonconforming residence further restricts the potential placement of any additions, likely making the location of the proposed deck reasonable.

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>					



54.18

20.11

23.45

19.82

10.69

10.16

92-08-07-000
208:000-001

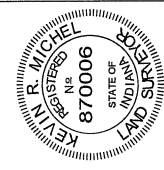
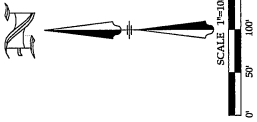
LEGEND
 M = MEASURED
 P = PLAT
 * = WALKER MONUMENT

C = CALCULATED
 R = RECORDED

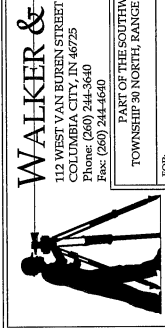
FIELD WORK COMPLETED ON 5-17-2023

PROPERTY ADDRESS
 112 WEST VAN BUREN STREET
 COLUMBIA CITY, IN 46725
 South Whitley, IN 46787

BASIS OF BEARINGS
 This survey is based on a true bearing of N00°20'00"W for the East line of Southwest Quarter of Section 7, Township 30 North, Range 8 East, Whitley County, Indiana. All bearings and distances were measured using a WGS84 signal and a local coordinate grid were utilized in this survey.



CERTIFICATE OF SURVEY
 I, THE UNDERSIGNED REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE HEREON PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTION AND THAT THIS SURVEY AND ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC-1-12 AND ALL OTHER AMENDMENTS THEREOF.



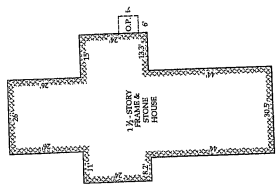
WALKER & ASSOCIATES
 112 WEST VAN BUREN STREET
 COLUMBIA CITY, IN 46725
 Phone: (260) 244-3640
 Fax: (260) 244-4640
 www.walkersurveying.net
 E-mail: mail@walkersurveying.net

FOR: **BURDINE, WILLIAM & TRACY**

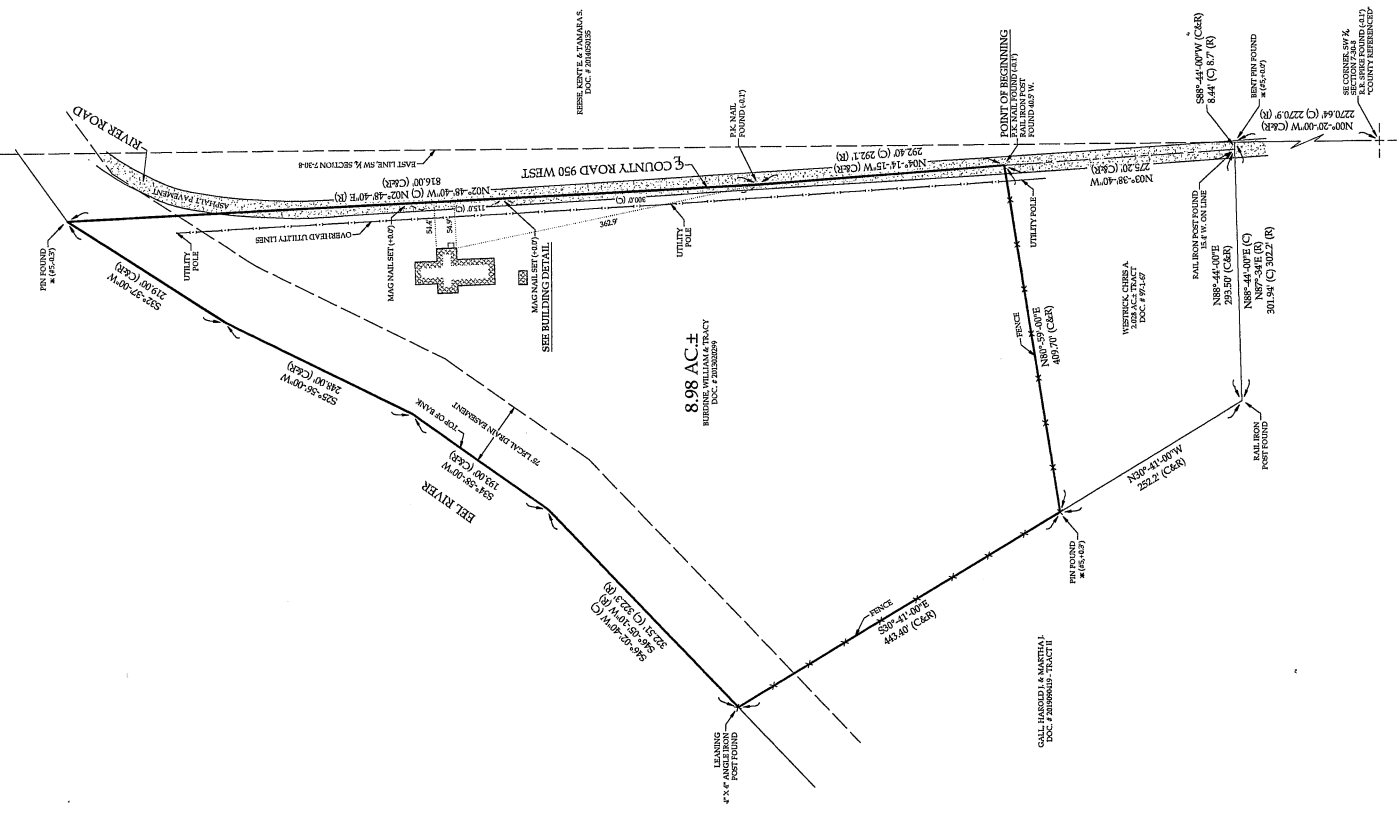
LAND SURVEYING,
 CIVIL ENGINEERING,
 & LAND PLANNING

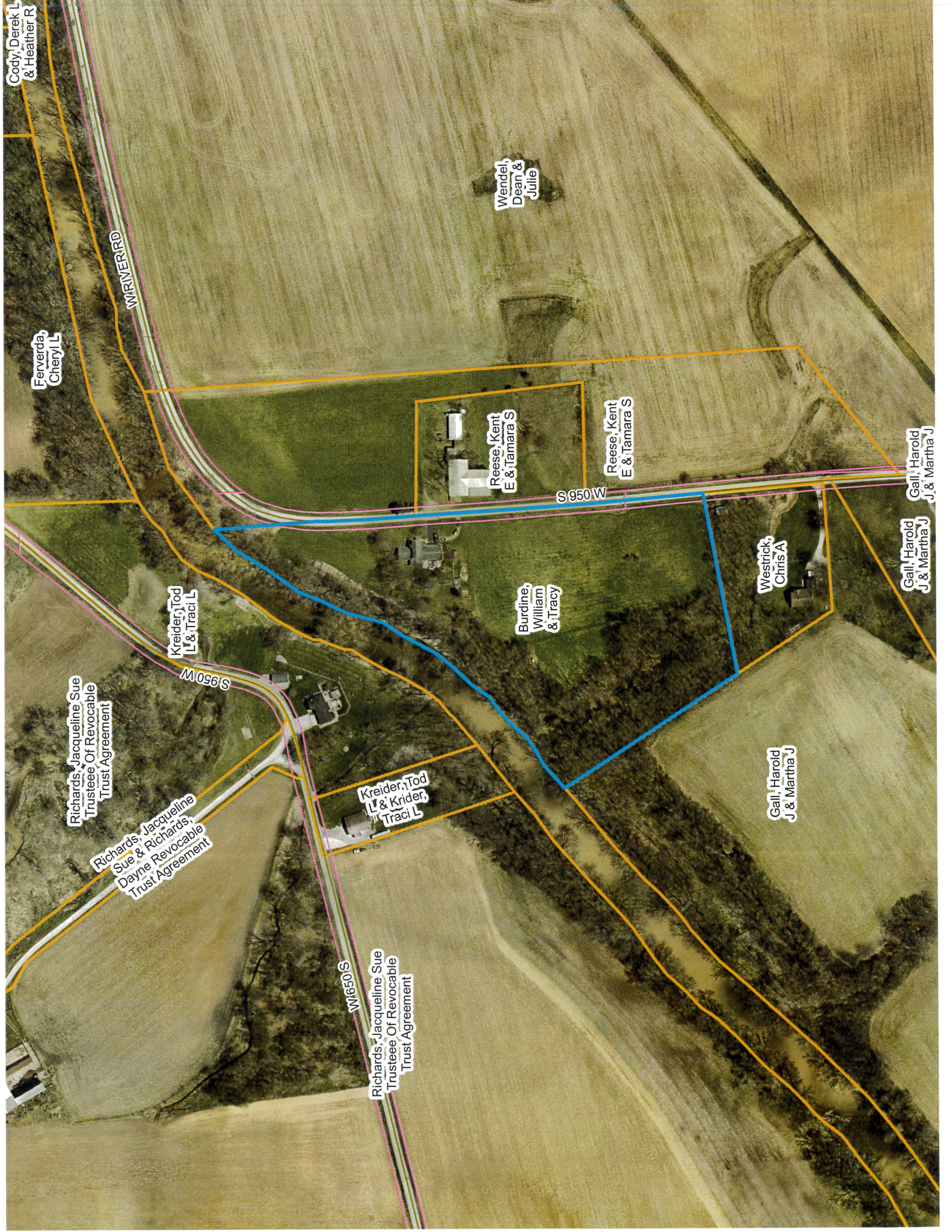
DATE: 5-26-2023 PAGE: 3 OF 3

SCALE: 1"=100' DRAWN BY: KBM
 DRAWING NUMBER: KJ-101



BUILDING DETAIL
 SCALE: 1"=8'-0"





Cody, Derek L & Heather R

Ferverda, Cheryl L

Wendel, Dean & Julie

W RIVER RD

Reese, Kent E & Tamara S

Reese, Kent E & Tamara S

S 950 W

Burdine, William & Tracy

Westrick, Chris A

Gall, Harold J & Martha J

Gall, Harold J & Martha J

Gall, Harold J & Martha J

Kreider, Tod L & Traci L

Richards, Jacqueline Sue Trustee, Of Revocable Trust Agreement

Richards, Jacqueline Sue & Richards, Dayne Revocable Trust Agreement

Kreider, Tod L & Krider, Traci L

M 096 S

Richards, Jacqueline Sue Trustee, Of Revocable Trust Agreement

M 650 S