

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

**23-W-VAR-20 DEVELOPMENT STANDARDS VARIANCE**  
Faron Hughes  
3053 E. Pickett Lane

**SEPTEMBER 26, 2023  
AGENDA ITEM: 2**

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Note that this request is related to, but independent of, special exception 23-W-SE-16.

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agriculture  
Property area: 10,210 sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance for encroachment into the front setback for construction of an attached garage. The property is located at 3053 East Pickett Lane, on Lot 193 Lincoln Pointe Section 4, in Section 17 of Union Township. The subject property is currently improved with a house/attached garage, swimming pool, and outbuildings.

The petitioner proposes to construct a 30'-wide addition to the existing attached garage that would extend approximately 12' from the front of the garage toward the street. The proposed setback would be approximately 15', which would avoid a platted utility easement. The purpose for the addition is described as added storage space for toys, bikes, cars, etc. At least some of the additional space is needed due to garage area being displaced by the operation of the business that is the subject of 23-W-SE-16.

The AG district requires a minimum 35' front yard setback when public sewer and water are available. However, since Lincoln Pointe was approved prior to the current code, it enjoys 30' platted front setbacks. Thus, the proposed 15' setback would be a 15' encroachment into the platted setback, and a 20' variance of the code setback.

**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 morals. Additional garage space typically does not promote immoral activities.

Public health may be affected by the proposal as the addition could block access to light and air to the adjacent properties. It is not clear whether this is significant enough to be considered injurious.

Public safety would be injured by this proposal, as the 15' setback would not be sufficient for the parking of a vehicle in the remaining driveway without blocking the sidewalk or even overhanging the curb. Alternatively, it would likely cause additional on-street parking, too much of which can cause congestion and traffic safety impacts. While there are some districts that a 15' setback may be acceptable because of their existing conditions, or for non-garage setbacks, it seems that it would be inconsistent with the surrounding neighborhood here and likely would have injurious effects.

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**

This variance will likely adversely affect the value of the area adjacent to the property as the proposed addition would be greatly inconsistent aesthetically with the surrounding properties, block view lines, and create additional on-street parking. However, whether these effects are substantial is not definite. If this variance allows for an expansion of the existing business, which is already at its maximum permissible size, the effect would be substantially adverse.

The use of the surrounding area would be adversely affected, as the visibility from adjacent driveways may be impeded by the addition, particularly for the property to the east. The likely increase of on-street parking could reduce on-street parking available for surrounding properties. Again, whether that is a substantial effect or a mere inconvenience should be determined by the Board.

**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.**

There are no apparent practical difficulties that arise from the property that support the requested variance. The subdivision already enjoys a 30' setback instead of the code required 35' setback. No other residences in the subdivision have encroachment like this.

Often, additional storage space for materials (although not vehicles) can be accommodated in the rear yard of the lot. However, this property's rear yard is occupied with an inground pool, gazebo, and other structures, all of which appear to have been constructed by the petitioner (the lack of permit records for some structures makes determination of age difficult).

Date report prepared: 9/22/23

**BOARD OF ZONING APPEALS ACTION**

Findings of Fact Criteria

	Green		Sheiss		Wilkinson		Wolf		Wright	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Criterion 1										
Criterion 2										
Criterion 3										

Motion:  Grant  
 Grant w/conditions  
 Deny

By: \_\_\_\_\_ Second by: \_\_\_\_\_

	Green	Sheiss	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					

# PLAT OF SURVEY

**DONOVAN ENGINEERING, INC.**

3521 LAKE AVENUE, SUITE 2  
FORT WAYNE, INDIANA 46805  
260.424.7418  
www.donovan-eng.com

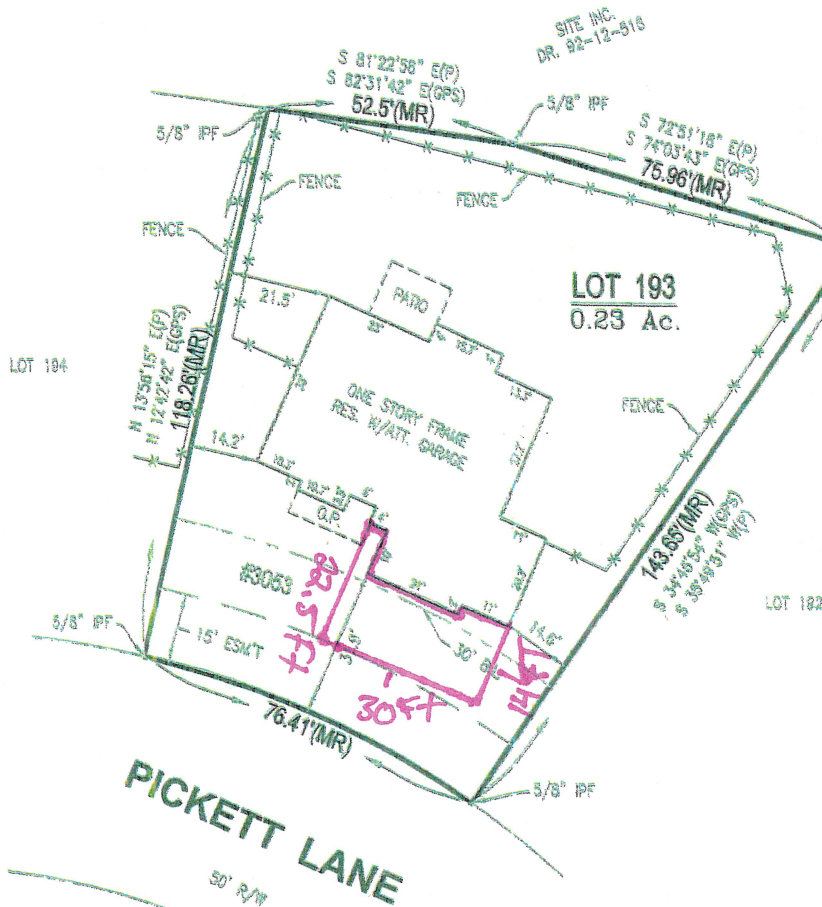
GREGORY L. ROBERTS PLS S0548 IN

KENNETH W. HARRIS PLS 29500021 IN

MICHAEL W. HARRIS PLS 21100018 IN

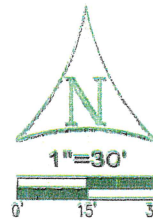
The undersigned has made a survey of the real estate located in Whitley County, Indiana, as shown and described below. The description of the real estate is as follows:

LOT NUMBER 193 IN LINCOLN POINTE, SECTION 4, THE PLAT OF WHICH IS RECORDED JUNE 4, 2014 AS INSTRUMENT 2014060073 OF THE WHITLEY COUNTY RECORDS, INDIANA.



+ Addition = Pink Line

Requesting  
Additional space  
in the garage for  
added storage +  
freezer space. Toys,  
Bikes, cars, ETC.



Job No.: 19-3288

Date: 5-9-19

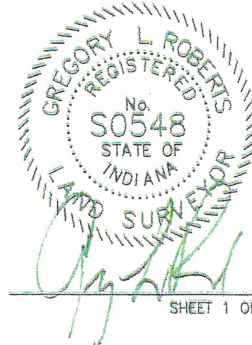
Job for: SNYDER - HUGHES

**LEGEND**

- IPF Iron Pin (Rebar) Found
- PF Pipe Found
- RRF Railroad Spike Found or (S) Set
- PKF P.K. Nail Found or (S) Set
- MNF Mag Nail Found or (S) Set
- IPS 5/8" rebar set w/cap stamped "DEI FIRM #0027"
- B.L Building Line
- (M) Measured (P) Platted
- (R) Recorded (C) Calculated

All monuments are at grade except as noted.  
All Property line distances are recorded dimensions, except as noted. Monuments found have no documented history except as noted.

Date of latest field work: 5-7-19



I hereby certify that this survey was completed under my direct supervision and to the best of knowledge and belief was executed according to the requirements set forth in 865 IAC 1-12.

L:\AutoCAD\Lot Surveys\193 Lincoln Pointe, Section 4, 2053 Pickett Lane.dwg





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Lamie, Hollie J

Ameritrust Lending LLC

Lincoln Investments LLC

Lincoln Investments LLC

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Lincoln Investments LLC

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Prater, Matthew C & Prater, Casey L

Shifflett, Troy L

Sonner, Bradley & Sonner, Amanda

Loehr, Ernest W & Vicki L

Stofel, Jonathon & Carly

Hughes, Faron M

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