

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

23-W-VAR-21 DEVELOPMENT STANDARDS VARIANCE
Travis Johnson
2020 E. Linker Road

**SEPTEMBER 26, 2023
AGENDA ITEM: 3**

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 0.39 ± acre

The petitioners, owners of the subject property, are requesting a development standards variance for an encroachment into the required rear setback at 2020 E. Linker Road for placement of a storage building. The property is located on the south side of Linker Road, ½ mile west of Old State Road 102, in Section 2 of Thorncreek Township.

The petitioner has proposed constructing a new 24' x 24' shed structure on the northwest side of the property to replace an existing 18'x30' building constructed in 2015. That structure was erroneously placed 18'± from the edge of pavement instead of the right-of-way, placing it roughly on the right-of-way. Thus, it was noncompliant with the 15' minimum rear (road) setback.

The new structure will be located approximately 20' from the edge of pavement, or about 4.5' from the right-of-way line. It will maintain a 5' side yard setback along the west property line.

The proposed request is for a 4.5' rear (road) setback, resulting in a 10.5' variance.

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 structure maintains at least some setback from the road and allows access around the property. Also, such structures exist around the area with encroachments and not apparent injury. However, 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

This variance likely would not adversely affect the value of the area adjacent to the property, as the similar structures with similar encroachments exist in the vicinity. The placement of the proposed building would not likely affect the use of the adjacent properties as it should still permit adequate visibility for the adjacent driveways and maintains the minimum side 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 does result in practical difficulties. The lot starts to slope significantly at the south line of the house, so reasonable placement of any structure would be along or north of the house. The need for adequate room for vehicle maneuvering on the existing driveway to enter the building pushes the structure closer to the road. Alternatively, if the building

were to comply with the setback line, it would be more likely that vehicles would need to back into the road to access the building.

Date report prepared: 9/15/23

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										

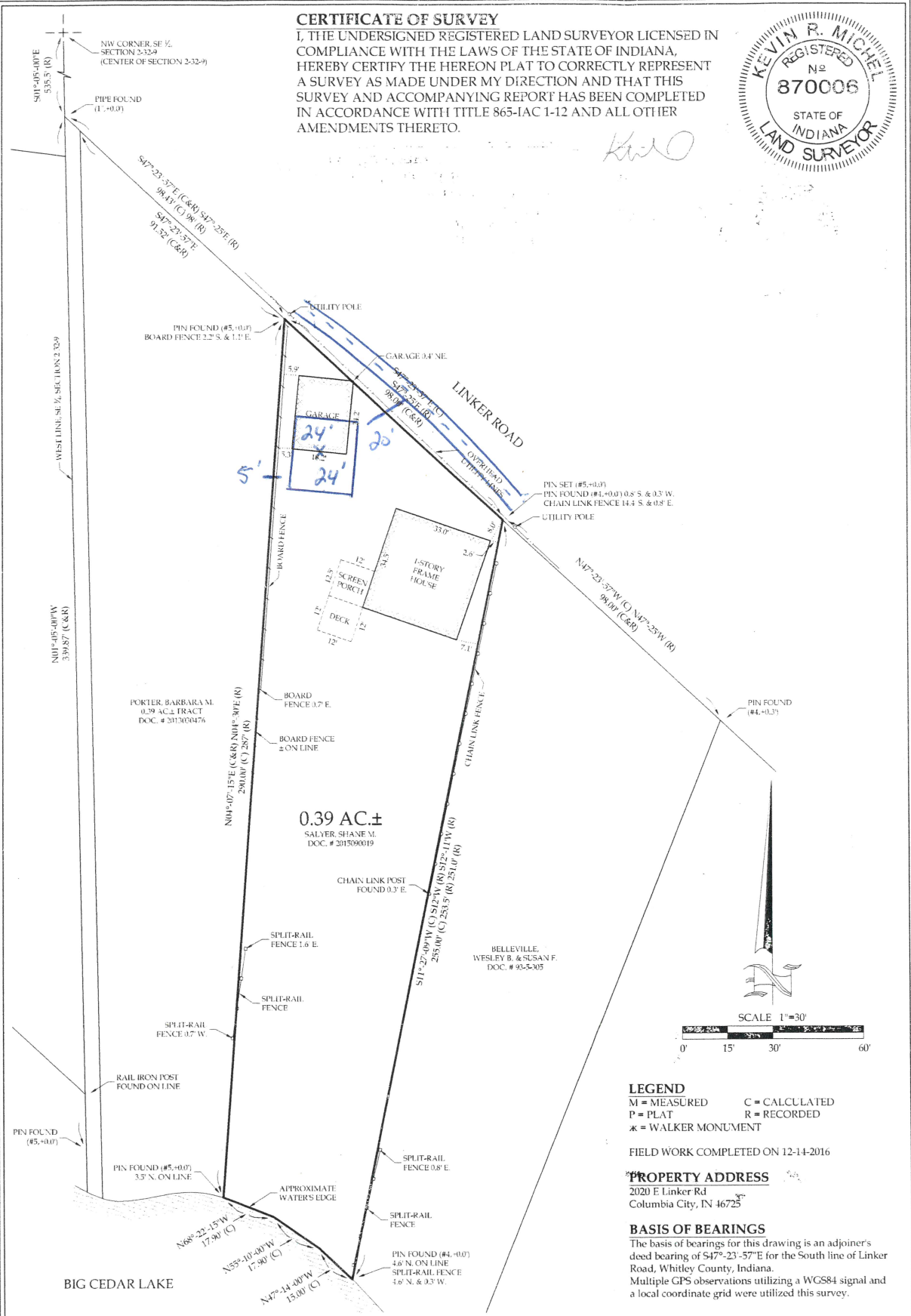
Motion: Grant
 Grant w/conditions
 Deny

By: _____ Second by: _____

Vote:	Green	Sheiss	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					

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 THERETO.



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**LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING**

PART OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 32 NORTH, RANGE 9 EAST, WHITLEY COUNTY, INDIANA

FOR: SALYER, SHANE M.		DRAWING NUMBER QV-125
SCALE: 1"=30'	DRAWN BY: RDP	DRAWING NUMBER QV-125
DATE: 12-15-2016	PAGE: 3 OF 3	