

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

23-W-VAR-26 DEVELOPMENT STANDARDS VARIANCE
Emily Lefebvre
6043 N. Timber Lane

**NOVEMBER 28, 2023
AGENDA ITEM: 1**

SUMMARY OF PROPOSAL

Current zoning: MP, Manufactured Home Park
Property area: 0.93 acres

The petitioner, representative of the owner of the subject property, is requesting a development standards variance for the minimum floor area on the property located at 6043 N. Timber Lane, in Section 3 of Smith Township.

The petitioner's deceased mother (the owner of record) or a previous owner removed a manufactured home and converted an existing garage on the property into a studio apartment with approximately 576± square feet of living space around 2018. No building permit for the remodel was issued at that time. The petitioner has recently acquired a permit for compliance inspections and consultation to identify any issues that need addressed and corrected in addition to this variance request.

The petitioner desires to sell the property as-is, without further construction. So, they are seeking a variance to allow for the reduced living space and allow for the clear transfer of the property. The current permit is still open, but the living area must meet the zoning requirements.

The code requires a minimum main floor area of 750 sq. ft. for a primary structure in the MP district. Therefore, a variance of 174± sq. ft. is requested to allow for the proposed 576± sq. ft. living area.

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 would not be expected to be injurious to the public safety and morals. However, as it is to be sold to a new buyer, the smaller area could be injurious to the public health since minimum floor areas are established to protect public health by ensuring adequate living area for the population at large. General welfare may be impacted if there are not practical difficulties specific to this property.

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 not likely adversely affect the use and value of the surrounding area as the neighborhood has many similar outbuildings of similar floor area. The use of the building for a residence instead of storage would be minimally discernable, so any effects would not likely be substantial or adverse.

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. In order to meet the required square footage, additional construction would need to be done, which is outside the ability of the petitioner. Whether this is self-imposed is indefinite due to this being an inherited situation since the petitioner did not have apparent knowledge of her mother's remodeling activities.

However, the petitioner is now actively seeking to rectify the deficiencies by acquiring the proper permitting and pursuing this variance.

SUGGESTED CONDITIONS

If the Board finds to grant the variance, staff recommends the following condition(s):

1. The structure is to be compliant with building and health code requirements.
2. This variance expires with the demolition of the subject building or its conversion to a non-residential use.
3. A deed restriction be added to the next deed noting that the building is subject to a variance as its floor area is not compliant with the minimum floor area of the zoning code, and that the variance expires with its demolition or conversion to a non-residential use.

Date report prepared: 11/16/2023

BOARD OF ZONING APPEALS ACTION

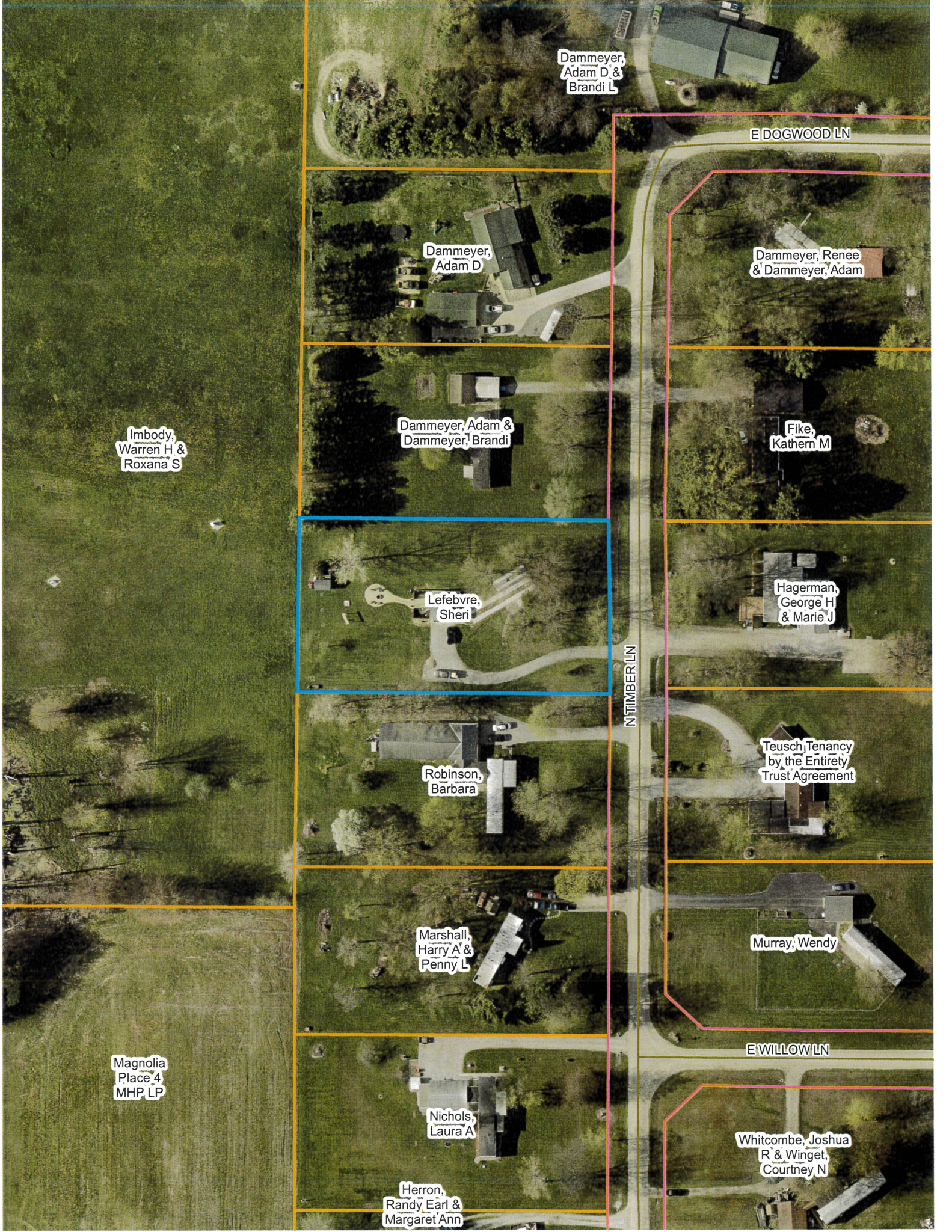
Findings of Fact Criteria

	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>					



Imbody,
Warren H &
Roxana S

Dammeyer,
Adam D. &
Brandi L

E DOGWOOD LN

Dammeyer,
Adam D

Dammeyer, Renee
& Dammeyer, Adam

Dammeyer, Adam &
Dammeyer, Brandi

Fike,
Kathern M

Lefebvre,
Sheri

Hagerman,
George H
& Marie J

N TIMBER LN

Robinson,
Barbara

Teusch, Tenancy
by the Entirety
Trust Agreement

Marshall,
Harry A &
Penny L

Murray, Wendy

E WILLOW LN

Magnolia
Place 4
MHP LP

Nichols,
Laura A

Whitcombe, Joshua
R & Winget,
Courtney N

Herron,
Randy Earl &
Margaret Ann



Dammeyer, Adam &
Dammeyer, Brandi

Imbody, Warren
H & Roxana S



Lefebvre,
Sheri



Robinson,
Barbara