

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

24-W-VAR-2 DEVELOPMENT STANDARDS VARIANCE
Michael & Rhonda Bauermeister
7990 N. Brown Road

**FEBRUARY 27, 2024
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 0.223 Acres

The petitioner, owner of the subject property, is requesting a development standards variance of the required front setback for construction of a new dwelling on the property located at 7990 N. Brown Road, in Section 36 of Etna Troy Township. The property is currently improved with a dwelling and shed that are planned to be removed.

Per the submitted plot plan, the proposed structure has a 31'± front setback from the lake side property line to its southeast corner. The other proposed setbacks meet the code minimums at 21.7' for the road (rear) setback, and 17.4' and 6' for the sides.

Since this lot has lake frontage, front setback standards apply to the lake side. The required minimum front setback is 35'. Thus, requested is a variance of 4'± from the code requirement.

Note that the averaged setback for this property per the code formula is approximately 46'. This is skewed upward due to two properties to the north having large setbacks of 100'+, while the averaged setback of the properties to the south is 22'±.

For reference, based on the Best Available map information and topography, the structure should not be located in the regulatory floodplain.

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 variances will not likely be injurious to the public safety, health, and morals as the proposed setbacks generally match the setbacks of existing structures along the lakefront, and generally adequate room is to be maintained around the structure. 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

It is not expected that this variance will adversely affect the value and use of the area adjacent to the property as similar properties in the LR district have similar encroachments, nor would the proposed setback impair access around the property or to the surrounding properties.

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 might result in a practical difficulty as the 35' setback standard would be out of line for most of the adjacent homes. The averaging rule is intended to provide allowance for this situation, but in this case, a few outlier properties increase the average significantly. Excluding those properties, the average setback would be approximately 22', and the proposal would be compliant. Further, shifting the dwelling 4' to create a compliant lakeside side back would reduce the roadside setback to 17'±. This is compliant with the code minimum, but it would reduce the amount of parking available between the road and structure, which could be problematic given the proximity of the road to the edge of the property.

Date report prepared: 02/14/2024

BOARD OF ZONING APPEALS ACTION

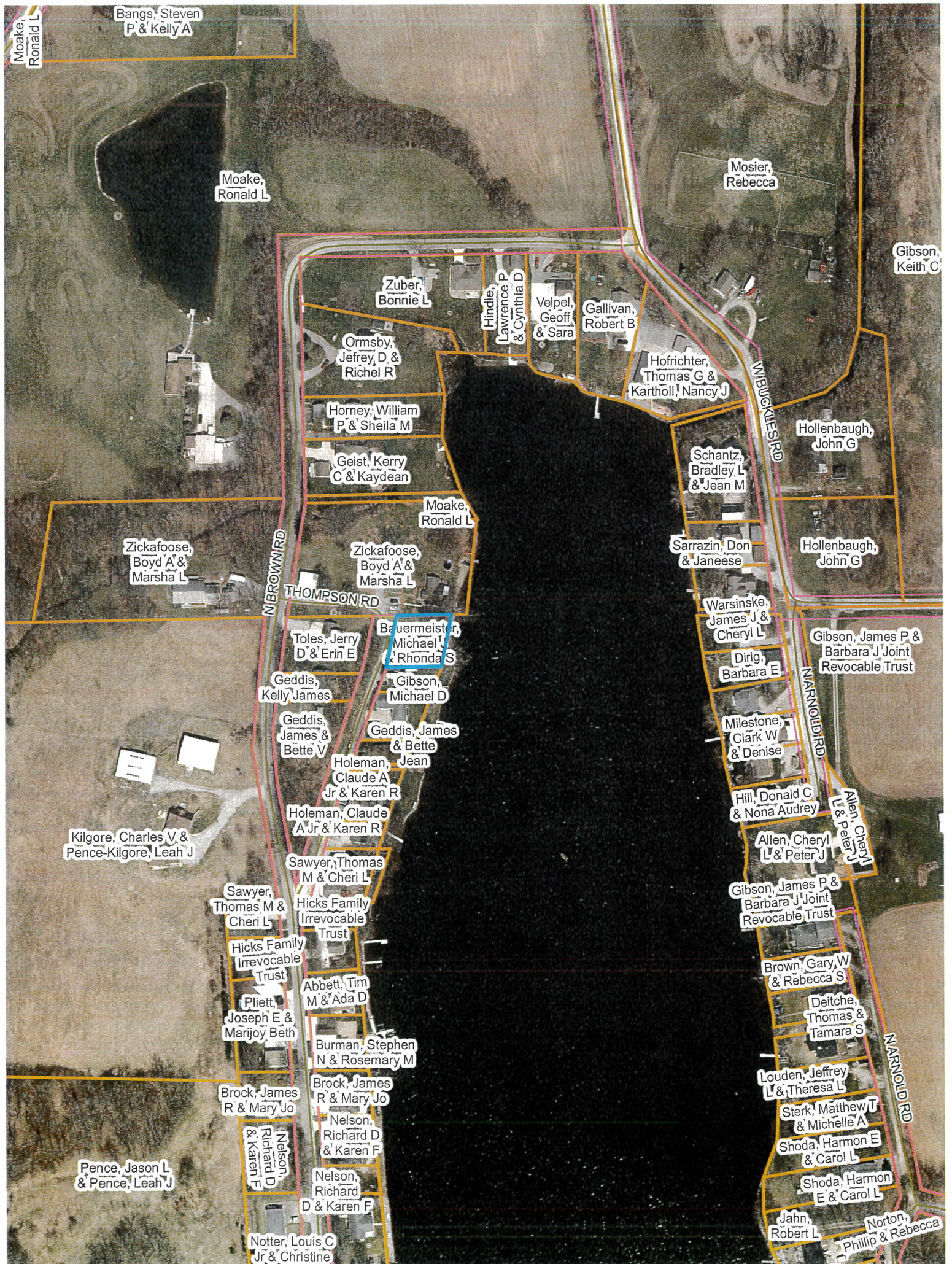
Findings of Fact Criteria

	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					



Moake, Ronald L

Bangs, Steven P & Kelly A

Moake, Ronald L

Mosier, Rebecca

Gibson, Keith C

Zuber, Bonnie L

Hindle, Lawrence P & Cynthia D

Vepel, Geoff & Sara

Gallivan, Robert B

Hofrichter, Thomas G & Kartholl, Nancy J

Ormsby, Jeffrey D & Richel R

Horney, William P & Sheila M

Geist, Kerry C & Kaydean

Moake, Ronald L

Zickafoose, Boyd A & Marsha L

Zickafoose, Boyd A & Marsha L

Sarrazin, Don & Janeese

Hollenbaugh, John G

Hollenbaugh, John G

N BROWN RD

THOMPSON RD

W JENKINS RD

Toles, Jerry D & Erin E

Bauermeister, Michael L & Rhonda S

Warsinske, James J & Cheryl L

Gibson, James P & Barbara J Joint Revocable Trust

Geddis, Kelly James

Gibson, Michael D

Dirig, Barbara E

Milestone, Clark W & Denise

Geddis, James & Bette V

Geddis, James & Bette Jean

Hill, Donald C & Nona Audrey

Allen, Cheryl L & Peter J

Kilgore, Charles V & Pence-Kilgore, Leah J

Holeman, Claude A Jr & Karen R

Holeman, Claude A Jr & Karen R

Allen, Cheryl L & Peter J

Gibson, James P & Barbara J Joint Revocable Trust

Sawyer, Thomas M & Cheri L

Sawyer, Thomas M & Cheri L

Hicks Family Irrevocable Trust

Hicks Family Irrevocable Trust

Brown, Gary W & Rebecca S

Deitche, Thomas & Tamara S

Pliett, Joseph E & Marijoy Beth

Abbett, Tim M & Ada D

Burman, Stephen N & Rosemary M

Brock, James R & Mary Jo

Brock, James R & Mary Jo

Louden, Jeffrey L & Theresa L

Sterk, Matthew T & Michelle A

Shoda, Harmon E & Carol L

Pence, Jason L & Pence, Leah J

Nelson, Richard D & Karen F

Nelson, Richard D & Karen F

Shoda, Harmon E & Carol L

Jahn, Robert L

Norton, Phillip & Rebecca

Notter, Louis C Jr & Christine

NARNOLD RD

PLOT PLAN

PREPARED FOR

MICHAEL J. BAUERMEISTER & RHONDA S. BAUERMEISTER

SITUATED IN THE FRACTIONAL NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA.
THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT. SUBJECT TO PLAN COMMISSION APPROVAL.

HISTORICAL DESCRIPTION OF SURVEYED TRACT

(Per Document Number 2023060381)

A small tract of land located in the Fractional Northeast Quarter of Section 36, Township 33 North, Range 8 East, more particularly described as follows, to wit:

Commencing at a point on the North line of said Section, which point is South 89 3/4 degrees East a distance of 883 feet from the Northwest corner of the Northeast Quarter thereof; thence South 13 degrees 25 minutes West 100 feet to a stake; thence North 89 3/4 degrees West parallel to said North line 100 feet to a stake; thence North 13 degrees 25 minutes East, 100 feet to the North line; thence South 89 3/4 degrees East on the said North line 100 feet to the place of beginning and containing .223 acres of land.

ALSO, a permanent right of use of an easement over and across lands, as a means of ingress and egress to the tract herein described said easement being located in the Southeast Quarter of Section 25, Township 33 North, Range 8 East and described as follows, to wit: Beginning at the point of intersection of the East line of a 40 foot County Highway and the South line of said Section, said point being South 89 3/4 degrees East 605.5 feet from the Southwest corner of the Southeast Quarter thereof; thence South 89 3/4 degrees East 194.5 feet; thence North 8 1/2 degrees East 25 feet; thence North 89 3/4 degrees West 194.5 feet to the East line of said Highway; thence South 8 1/2 degrees West 25 feet on said East line of Highway to the place of beginning and containing .223 acres of land.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. Low-lying areas adjacent to Loon Lake appear to be situated in Zone "A", which is in a flood plain. The remainder of the surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0045C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

PROPERTY ADDRESS

7990 N Brown Rd
Columbia City, IN 46725

ZONING REQUIREMENTS

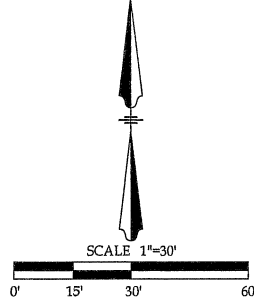
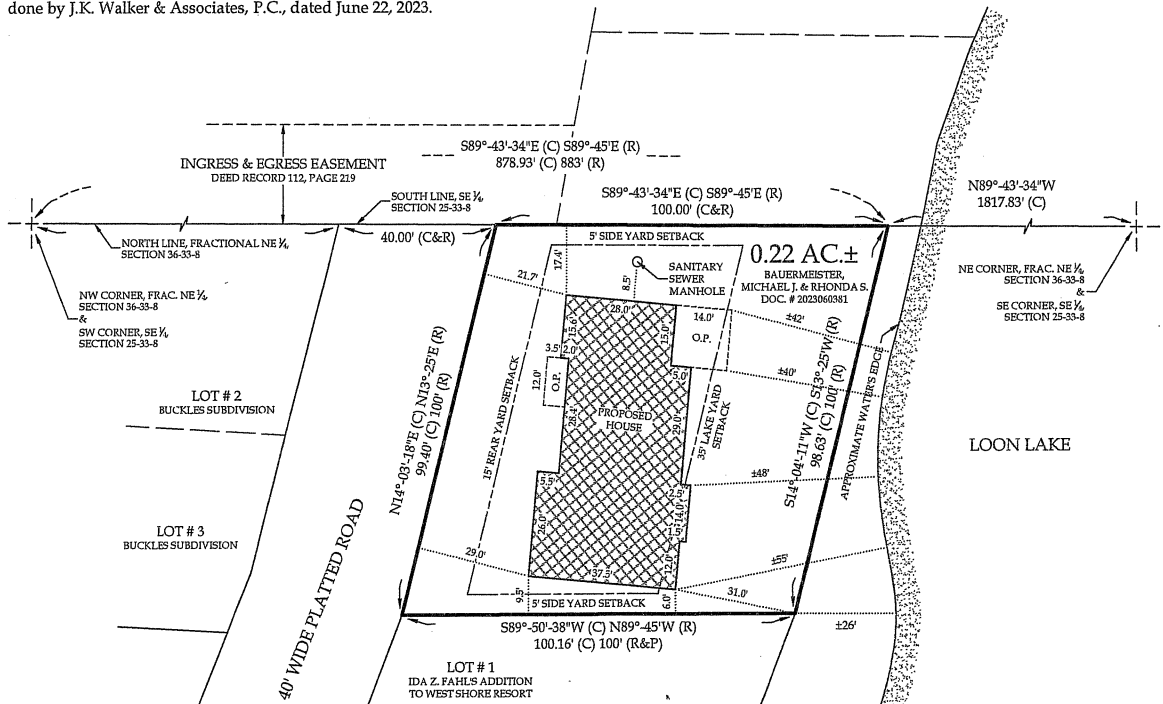
Zoned: "LR" Lake Residential
Minimum Front Yard Setback: 35 feet
Minimum Side Yard Setback: 5 feet
Minimum Rear Yard Setback: 15 feet
Minimum Lake Yard Setback: 35 feet
(Source: Whitley County GIS and Whitley County Zoning Ordinance)

LEGEND

M = MEASURED C = CALCULATED
P = PLAT R = RECORDED
X = WALKER MONUMENT

SURVEY NOTE

The bearings and distances shown on this Plot Plan are based on a survey done by J.K. Walker & Associates, P.C., dated June 22, 2023.



WALKER & ASSOCIATES
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Fax: (260) 244-4640
www.walkersurveying.net
E-mail: mail@walkersurveying.net

LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING

PART OF THE FRACTIONAL NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA		
FOR: BAUERMEISTER, MICHAEL J. & RHONDA S.		
SCALE: 1"=30'	DRAWN BY: KRM	DRAWING NUMBER
DATE: 1-23-2024	PAGE: 1 OF 1	BP-178