

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

**24-W-VAR-3 DEVELOPMENT STANDARDS VARIANCE**  
Brooks Langeloh  
2740 W. 700 North

**FEBRUARY 27, 2024  
AGENDA ITEM: 3**

**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential  
Property area: 0.64± Acres

The petitioner, co-owner of the subject property, is requesting development standards variances of the required front and side setbacks and minimum lot width and area as part of a proposed subdivision of the subject property. The site is located at 2740 West 700 North, at the northwest corner of 700 North and Brown Road, in Section 36 of Etna Troy Township. The property is currently improved with a dwelling and shed.

The proposed plat would break the existing U-shaped parcel into two more regular shaped lots. Lot 1 would contain the existing outbuilding, while Lot 2 would have the existing house.

The plat is being considered by the Plan Commission on the 21<sup>st</sup>, and if approved, it would be conditioned upon variances being granted for lot development standards. This table shows the code standards for each lot and the necessary variances:

|                             | <b>Code</b>    | <b>Lot 1</b>   | <b>Lot 2</b>  | <b>Variance</b> |
|-----------------------------|----------------|----------------|---------------|-----------------|
| <b>Minimum lot area</b>     | 10,000 sq. ft. | 11,976 sq. ft. | 8,720 sq. ft. | 1,280 sq. ft.   |
| <b>Minimum lot width</b>    | 70'            | 70'            | 68.25'        | 1.75'           |
| <b>Minimum lot frontage</b> | 50'            | 70'            | 215.63'       | NA              |

Additionally, because the plat dedicates right-of-way for the adjacent public roads, and because there are existing improvements on each lot, setback encroachments are created. Because they are created by the nature of the plat requirements, these encroachments can be treated as legal nonconformances. However, the petitioner wishes to address the nonconformities now to reduce potential future difficulties in using the lots. This table shows the code and proposed setbacks and necessary variances (in bold) for the setback encroachments:

|                       | <b>Front yard</b>                                   | <b>Side yard</b>                         | <b>Rear yard</b>                |
|-----------------------|---|--|---------------------------------|
| <b>Code</b>           | 35'   | 5' (current)<br>10' (as proposed)        | 15' (primary)<br>5' (accessory) |
| <b>Lot 1 existing</b> | 55'±  | 6'± (north)<br>26.5'± (south)            | NA                              |
| <b>proposed</b>       | 42'±  | <b>5'± (north)</b><br><b>5'± (south)</b> |                                 |
| <b>Lot 2 existing</b> | 32'± (Brown Road)<br>45'± (700 North)               | 27'± (north)<br>14'± (west)              | NA                              |
| <b>proposed</b>       | <b>17'± (Brown Road)</b><br><b>30'± (700 North)</b> | <b>5'± (north)</b><br><b>5'± (west)</b>  |                                 |

Note that the side yard standard is variable as the code requirement is 5' for existing lots created prior to the adoption of the code in 2006, while it is 10' for lots created after 2006. Since the proposed plat would create new lots, the 10' standard would apply. Also note that the existing parcel and proposed lots both are

considered double frontage/corner lots, which are defined to have two front yards, two side yards, and no rear yard.

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 setback variances will not be injurious to the public health, morals, and general welfare as the proposed setbacks are no different than the setbacks of the existing structures or as currently permitted by the code. Public safety may be affected as the increased rights-of-way could permit road widening that would place public traffic nearer the existing house, particularly along 700 North, but the effect is not likely significant enough to be considered injurious.

The proposed lot variances are also not injurious. The proposed reduced lot width is minimal, being only 1.75'. The reduced lot area of 8,720 sq. ft. is also not injurious as it maintains an area adequate for the residential use, and other lots of lesser area in the vicinity and throughout the LR district exist without particular injurious effects.

**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**

The proposed setback variances will not adversely affect the value and use of the area adjacent to the property as the proposed variances would not permit any visible or effective changes to the existing structures.

The proposed lot variances would not substantially affect the value of the surrounding area since the width variance would also reestablish the existing situation, and the lot area variance is comparable to many existing lots in the vicinity. Both variances would allow for adequate room for permitted uses, so the use of the surrounding area would also not be adversely affected.

**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 would result in practical difficulties for setbacks, as the required dedication of rights-of-way creates encroachments in front setbacks and would leave only a 23' buildable width for Lot 2. Additionally, the side setbacks differ because they are intended to apply to entirely new lots, whereas this site includes existing improvements. This is further reflected in the petitioner's request to maintain the existing 5' side setbacks, even where the existing improvements would be compliant with the 10' setback.

The lot variances also have practical difficulties. The area of Lot 2 could be made compliant by taking a strip from the western side of Lot 1 and the access easement, but such a strip would be useful only for code compliance. Practically, it would become a matter of contention between lot owners and a likely maintenance problem. Other solutions to the lot area would create further variances or encroachments. The lot width request originates, like the setback variances, from the dedication of right-of-way along Brown Road, which is an imposition of the subdivision code.

**SUGGESTED CONDITIONS**

If the Board moves to grant the variances, the following are suggested condition(s) of the approval:

1. The plat be amended with the setback lines as approved and a notation of this variance approval.

Date report prepared: 2/21/2024

**BOARD OF ZONING APPEALS ACTION**

Findings of Fact Criteria

|                    | <b>Green</b> |           | <b>Sheiss</b> |           | <b>Wilkinson</b> |           | <b>Wolf</b> |           | <b>Wright</b> |           |
|--------------------|--------------|-----------|---------------|-----------|------------------|-----------|-------------|-----------|---------------|-----------|
|                    | <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:

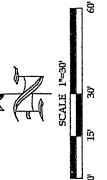
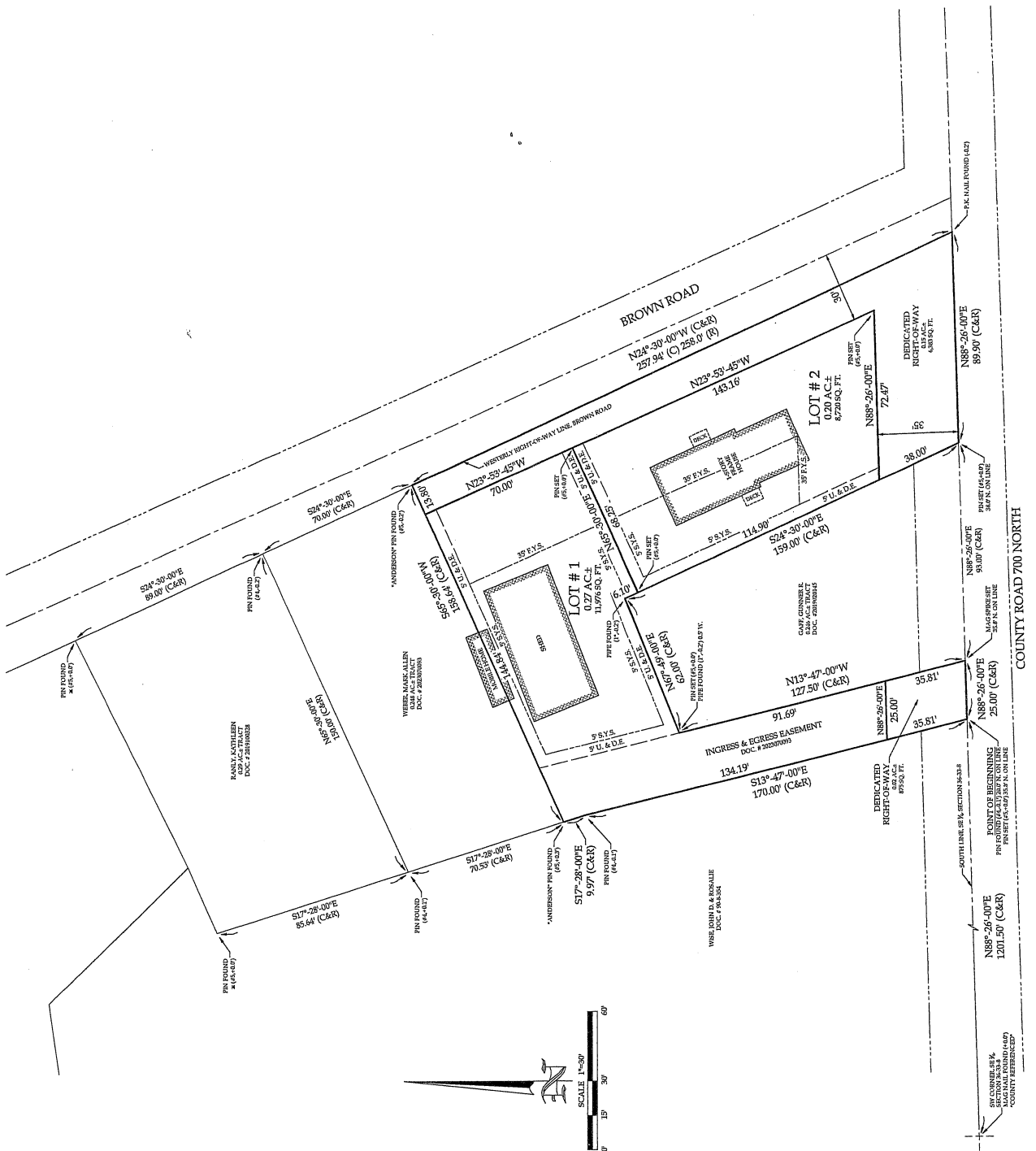
Second by:

| <b>Vote:</b>   | <b>Green</b> | <b>Sheiss</b> | <b>Wilkinson</b> | <b>Wolf</b> | <b>Wright</b> |
|----------------|--------------|---------------|------------------|-------------|---------------|
| <i>Yes</i>     |              |               |                  |             |               |
| <i>No</i>      |              |               |                  |             |               |
| <i>Abstain</i> |              |               |                  |             |               |



# WEST LOON (PRELIMINARY)

SITUATED IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA



**LEGEND**  
 M = MEASURED  
 C = CALCULATED  
 P = PLAT  
 R = RECORDED  
 \* = WALKER MONUMENT  
 X = IRON NAIL FOUND  
 S.Y.S. = SIDE YARD SETBACK  
 R.Y.S. = REAR YARD SETBACK  
 U. & D.E. = UTILITY & DRAINAGE EASEMENT

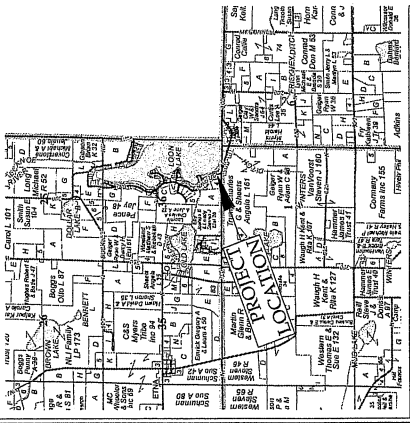
**PROPERTY ADDRESS FOR LOT # 2**  
 2740 W 700 N  
 Columbia City, IN 46725

**SURVEY RECORDING NOTE**  
 The retracement boundary survey for this Plat is recorded in Document Number: 2024010259 in the records of Whitley County, Indiana.

**BASIS OF BEARINGS**  
 The basis of bearings for this drawing is a deed bearing of N88°-26'-00"E for the South 1/4 of the Southeast Quarter of Section 36, Township 33 North, Range 8 East, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

**AREA NOTES**  
 The Plat of West Loon, contains 0.64 acres.  
 Lot Number 1 contains 0.27 acres (11,976 sq. ft.).  
 Lot Number 2 contains 0.20 acres (8,720 sq. ft.).  
 There are 0.17 acres (7,258 sq. ft.) of Dedicated Right-of-Way.

**VICINITY MAP**  
 NOT TO SCALE



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