

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

24-W-VAR-11 DEVELOPMENT STANDARDS VARIANCE
Stephen & Karen Homan
2718 E. Island Court

JUNE 25, 2024
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 6,720± sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance of the required front setback for construction of a replacement deck on the property located at 2718 E. Island Court, in Section 12 of Thorncreek Township. The property is currently improved with a dwelling, deck, and detached garage.

As proposed, the existing deck would be removed and a new deck constructed in approximately the same footprint. A permit for the deck could not be found, but it was in existence prior to 1998, so it may or may not be legal nonconforming. In any case, its removal would remove any legal nonconforming status as well. Variance 06-W-VAR-5 was granted in 2006 for the room addition with a 20' front setback.

Per the submitted plot plan, the existing deck zero or perhaps negative setback from the lake side property line, and the new deck would match the existing footprint. So the setbacks would be 0.0' on the lake front, 0.2' on the southeast side, and 15' on the northwest side.

Since this lot has lake frontage, front setback standards apply to the lake side. The required minimum front setback is 35' and side setback is 5'. Thus, requested are variances of 35'± and 4.8'± from the code requirements.

An averaged front setback for this property per the code formula is approximately 32'. The proposed setback would be nearer than any other setback of those averaged.

For reference, based on the Best Available map information and topography, the structure may be partially located in the regulatory floodplain, so flood code requirements will apply. The Base Flood Elevation is 903.1', while the ground elevation at the edge of the deck is roughly 903', so compliance with the code should not be complicated.

For the area within 10' of the lakeshore, the Indiana Lake Preservation statute prohibits any of the deck posts deeper than the normal lake level of 901.9' unless a permit is obtained from DNR.

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 are similar to setbacks of existing structures along the lakefront, although the front setback is substantially closer. Being an open deck, there is generally adequate room for access 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 of the area adjacent to the property as similar properties in the LR district have similar improvements with varying encroachments that do not adversely affect values. It may affect the use of the adjacent property to the east since the new deck would still be (virtually) on the property line; however, since it matches the existing deck, the effect may not be substantial.

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 a practical difficulty. The existing deck was installed many years ago, far before the current ownership, and may have legal nonconforming status, although the evidence is inconclusive. The petitioner could continue to maintain the existing deck, rather than replacing it, which would perpetuate the encroachments.

Date report prepared: 6/17/2024

BOARD OF ZONING APPEALS ACTION

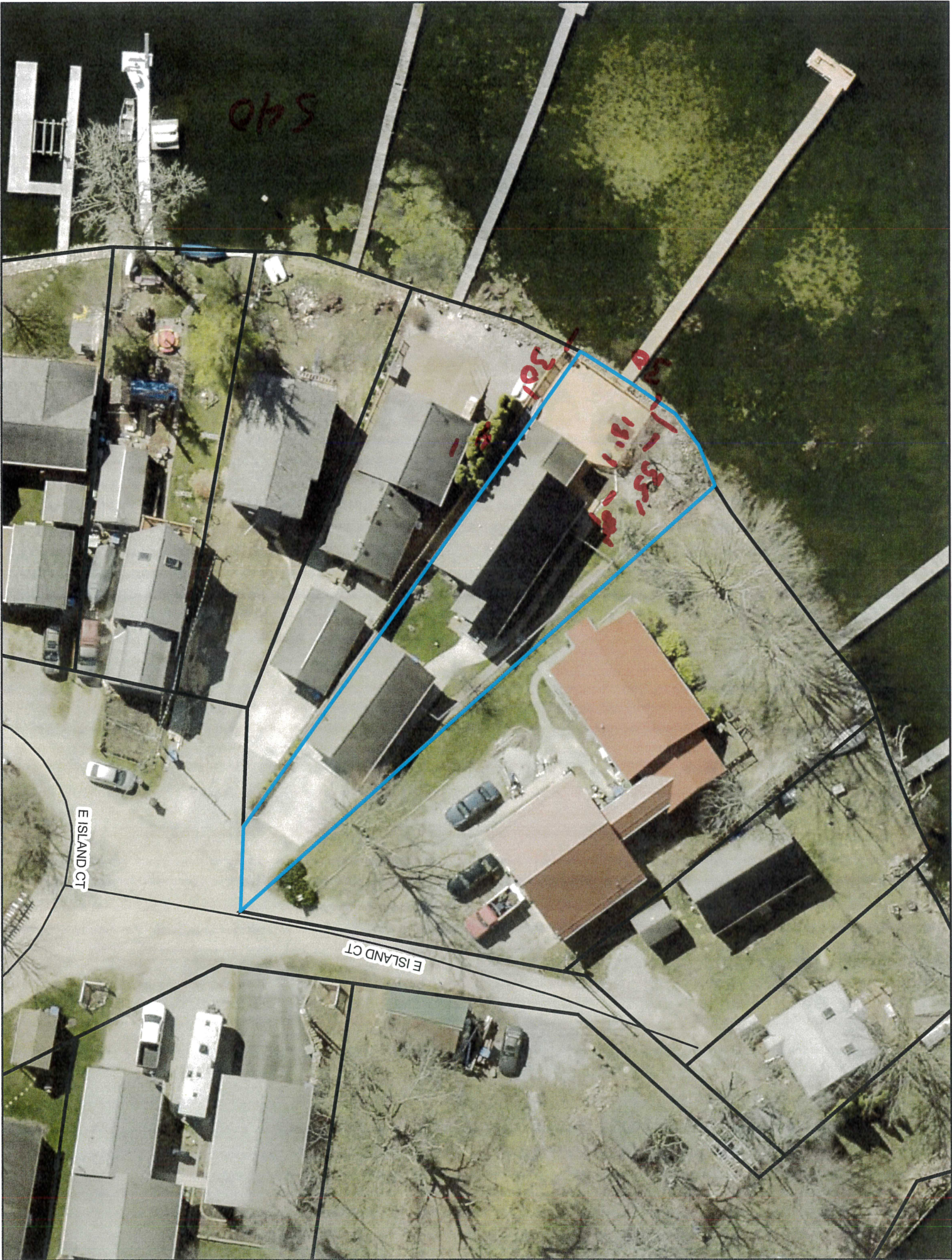
Findings of Fact Criteria

	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>					



540

301

151-551-194

E ISLAND CT

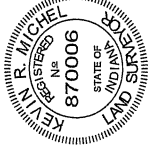
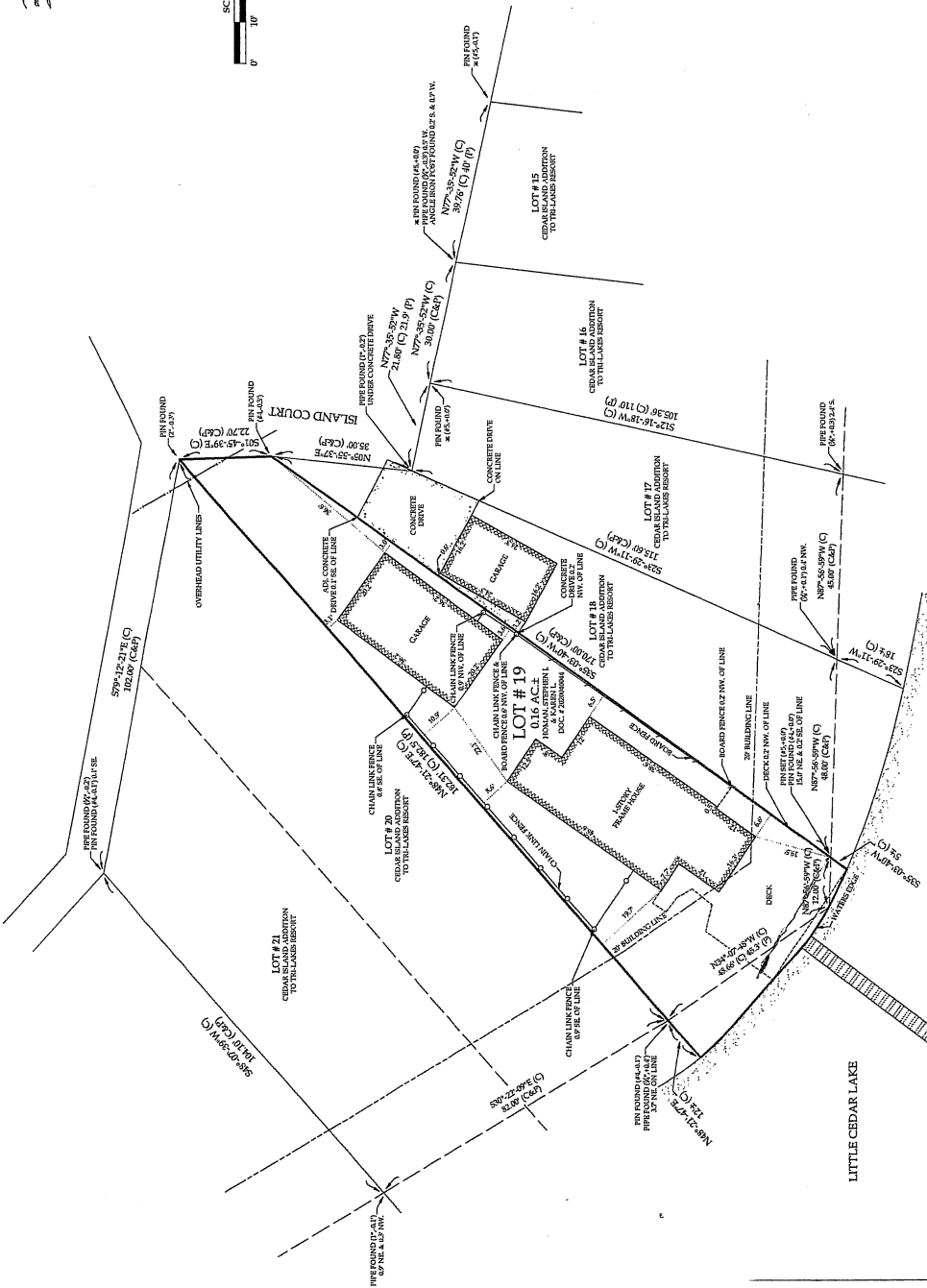
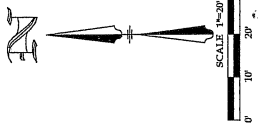
E ISLAND CT

LEGEND
 M = MEASURED
 P = PLAT
 * = WALKER MONUMENT
 C = CALCULATED
 R = RECORDED

FIELD WORK COMPLETED ON 4-12-2024

PROPERTY ADDRESS
 2718 E BIRCH CREEK DRIVE
 COLUMBIA CITY, IN 46725

BASIS OF BEARINGS
 The basis of bearings for this drawing is GPS bearings. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.



CERTIFICATE OF SURVEY
 I, THE UNDERSIGNED REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THAT THE HEREON ATTACHED PROPERTY RESURVEY AND PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC-1-12 AND ALL OTHER AMENDMENTS THERETO.

WALKER & ASSOCIATES EST. 1984
 112 WEST VAN BUREN STREET
 COLUMBIA CITY, IN 46725
 Phone: (317) 244-4444 Fax: (317) 244-4444
 Email: walk@walkerassoc.com
 www.walkerassoc.com

LAND SURVEYING, CIVIL ENGINEERING, & LAND PLANNING

LOT NUMBER 19 IN CEDAR ISLAND ADDITION TO TRI-LAKES RESORT, WHITLEY COUNTY, INDIANA

FOR: **HOMAN, STEPHEN J. & KAREN L.**

SCALE: 1"=20'
 DATE: 4-30-2024
 DRAWN BY: ERM
 PAGE: 3 OF 3
 DRAWING NUMBER: **AL-149**