

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

**24-W-VAR-14    DEVELOPMENT STANDARDS VARIANCE**  
Shawn & Stephanie Pierce  
2367 W. 700 North

**JULY 23, 2024**  
**AGENDA ITEM:    4**

**SUMMARY OF PROPOSAL**

Current zoning:    LR, Lake Residential  
Property area:    0.16 acre

The petitioner, owner of the subject property, is requesting a development standards variance of the required front and side setback for construction of room addition on the property located at 2367 W. 700 North, in Section 6 of Thorncreek Township. The property is currently improved with a dwelling and an accessory structure.

As proposed, a new room addition would be located on the north east corner of the existing dwelling.

Per the submitted site plan, the proposed addition has a 22'± front setback from the property and right-of-way line, which is 5'± closer than the existing structure. The proposed side setback of the new addition is 2'±, which is 1.6'± farther from the property line than that of the existing structure.

Since this lot has no lake frontage, front setback standards apply to the road side. The required minimum front setback is 35' and side setback is 5'. Thus, requested is a variance of 13'± from the code requirement for the front setback and requested variance of 3'± from the code requirement for the side setback.

Though there are properties in the area that have similar setbacks to the proposal, the calculated average front setback for the property is 46'± due to multiple parcels having setbacks of 70' and greater.

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 setback generally matches the setbacks of various existing structures in the lake area, particularly those with lake frontages. While farther from the property line than the existing building, the reduction of the side setback below 5' for the addition will require enhanced fire rating for the wall in order to further protect fire safety. 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 and the existing dwelling already encroaches into the 5' side setback.

Date report prepared: 07/02/2024

**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

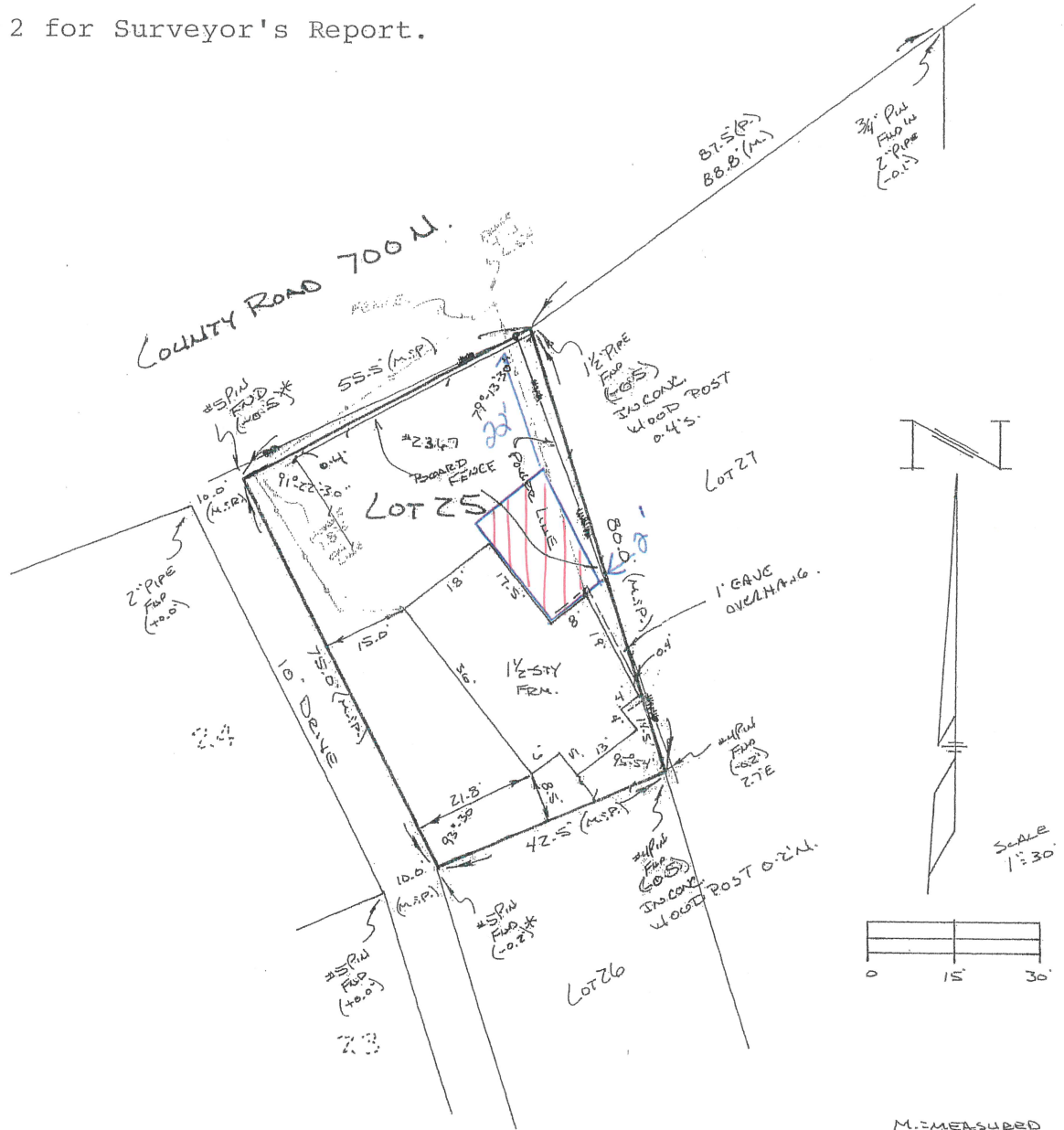
By: \_\_\_\_\_ Second by: \_\_\_\_\_

<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>					

LOT NUMBER 25 IN SECOND OAK HILL ADDITION TO THE LOON LAKE RESORT, all situated in Section 6, Township 32 North, Range 9 East, Whitley County, Indiana.

This property is not in a flood plain (In Zone X) as defined by the Flood Insurance Rate Map dated 04-01-88, Community No. 180298-0001B, Whitley County, Indiana.

See page 2 of 2 for Surveyor's Report.



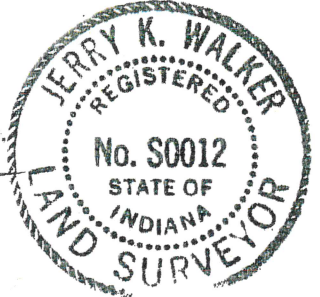
M.=MEASURED  
P.=PLAT  
FND.= FOUND  
FIELD WORK COMPLETED  
ON 8-11-05

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.

I hereby certify on the 12th day of August, 2005, that the above survey is correct.

Surveyed for: Millspaugh, Robert / Sheri L.

Survey No.: GU-124







Kanagy, Larry D & Tammy S

Chopson, Douglas K Jr & Jena N

Geiger, Clay W & Sandra J

Fortney, Joseph & Gage, Kassondra

Bates, Richard E & Roberta C

Bowers, Brian R

Hill, Garry J & M Louise

Cornyn, Michael & April

Rush, Marion L

Dittman, David

Cornyn, Michael R & April L

Pierce, Shawn & Stephanie

Arnold, Kelsie

Hill, Garry J & M Louise

Brandenberger, Jay J & Nancy M

N 707 N

Mitchell, Karissa T & Jason L

Owen, Charles & Carrie

Owen, Charles & Carrie

Frissell, Michael R

Mitchell, Karissa T & Jason L

Garwood, Michael E & Louann

Layne's Property Maintenance LLC

Cornerstone Realty Group, LLC

Copp, Anna R

Layne's Property Maintenance LLC

Layne's Property Maintenance LLC

Copp, Anna R

Cornerstone Realty Group LLC

Squires, Paul D

Layne's Property Maintenance LLC

Welch, Jonathon Neil & Kim Lyvonne

Koons, Richard B

Squires, Paul D

Chin, Colin & Diane

Chin, Colin & Diane

Reed, Laurie J