

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

24-W-VAR-17 DEVELOPMENT STANDARDS VARIANCE
Kimberly & Christopher Winslow
5820 N. Center Street

**SEPTEMBER 24, 2024
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 7,250± sq. ft.

The petitioners, owners of the subject property, are requesting a development standards variance of the required front setback for construction of a new deck on the property located at 5820 N. Center Street, in Section 12 of Thorncreek Township. The property is currently improved with a dwelling and a shed.

As proposed, a new 14'x28.5' freestanding deck would be constructed on the lake side of the dwelling. Per the submitted site plan, the proposed deck has a 10'± setback from the property line. The nearest post, or foundation, will be 15'± from the property line. The other proposed setbacks meet the code minimums.

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 20'± from the code requirement.

For reference, based on the Best Available map information and topography, the structure will be located in the regulatory floodplain. Being a standalone accessory structure of less than 400 sq. ft., the proposal should comply with the applicable floodplain development standards.

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 existing structures along the lakefront, and generally adequate room is to be maintained around the structure. While being in the floodplain, the structure is proposed to meet the standards for floodplain development. 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 lot is burdened with a relatively steep slope toward Center Street, causing the existing legal nonconforming dwelling to be nearer the lakeshore than several of the residences immediately to the north. Since this is essentially a "corner" lot, strict adherence to the 35' setback standard creates a very small buildable area. Combined with the prevalence of historic development encroachments, this proposal seems relatively comparable to much of the surrounding area.

Date report prepared: 09/18/2024

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: _____

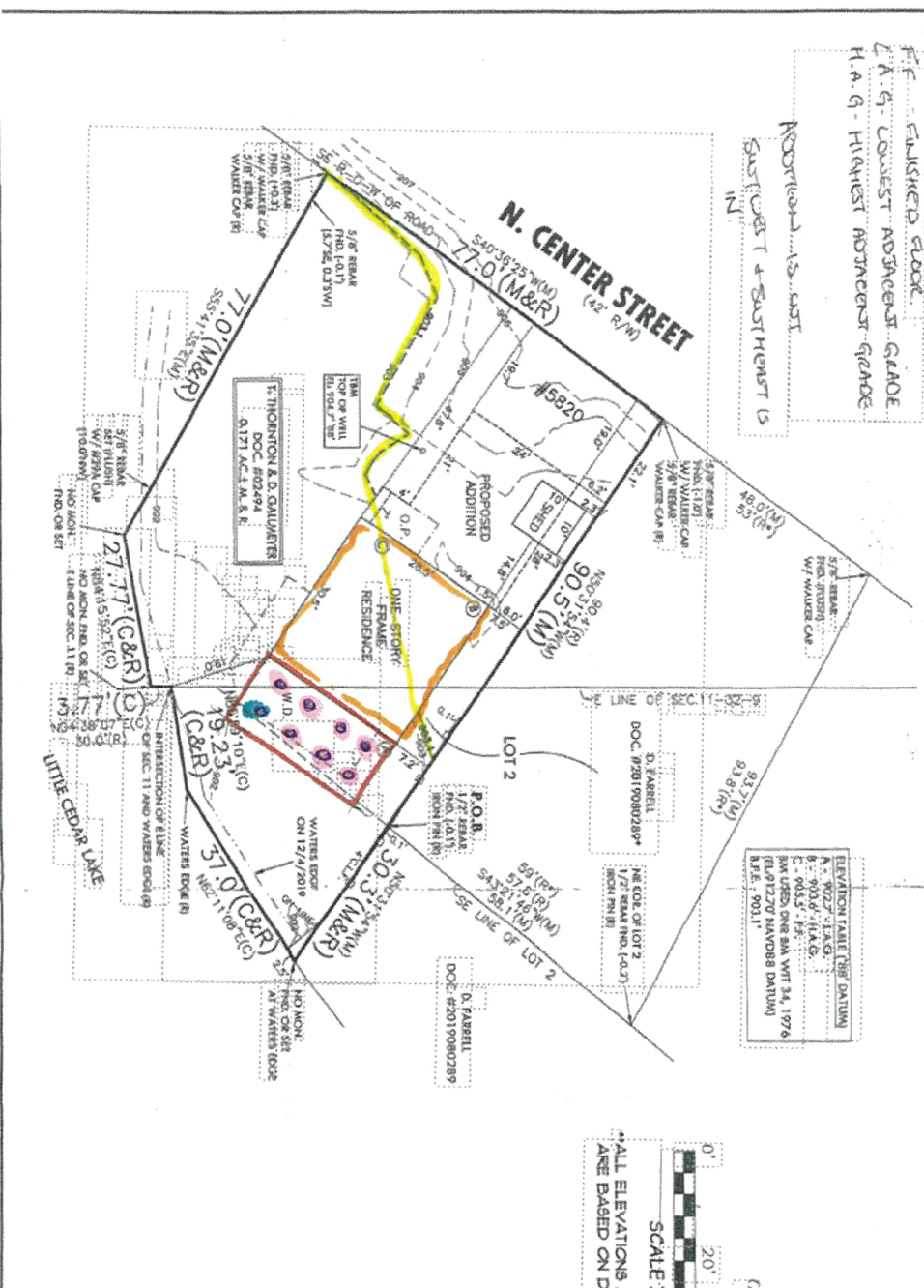
Vote:	Green	Sheiss	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					

BFC BRIDGE FEASIBILITY STUDY
 FF FINISHED FLOOR
 L.A.G. LOWEST ADJACENT GRADE
 H.A.G. HIGHEST ADJACENT GRADE

PROPOSED... AS...
 EAST WEST & EAST WEST IS
 IN

PLAT OF SURVEY Page 1 of 2

This document is a Retacement Survey of a parcel of land located in Whitley County, Indiana.
 SEE PAGE 2 OF 2 FOR THE SURVEYOR'S REPORT AND LEGAL DESCRIPTION.



ELEVATION TABLE (PER DATUM)	
A.	902.7' I.A.G.
B.	903.6' I.A.G.
C.	903.5' I.A.G.
BM USED ON SA WIT 34, 1976	
PL1270 NAVD88 DATUM	
B.M. 9031'	



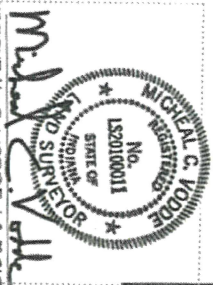
= EXISTING HOUSE

= POSTS (2 SETS OF 4)

= PORCH OUTLINE (14' x 28.5')

= CLOSEST POST TO SHORE IS 14' FROM

I hereby certify that the ABOVE PLAT OF SURVEY was prepared under my direct supervision and that to the best of my knowledge and belief it was executed in accordance with the requirements of the Indiana Survey Standards as defined in Title 855, Article 1, Rule 12 of the Indiana Administrative Code.
 Fieldwork completed on the 4th day of DECEMBER, 2019.
 Certified this 6th day of DECEMBER, 2019.
 Prepared exclusively for: THORNTON & GALLIHER
 Survey Number: 19-10-139



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(DECEMBER 2019 / 19-10-139)

