

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

24-W-VAR-23 DEVELOPMENT STANDARDS VARIANCE

Burnell Gump  
5822 N. 350 East

SEPTEMBER 24, 2024

AGENDA ITEM: 3

**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential

Property area: 5,200± sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance of the required minimum main floor area of a dwelling on the property located at 5822 N. 350 East, in Section 7 of Smith Township. The property is currently improved with a two-story residence, historically used for two apartments, one on each floor.

As proposed, the dwelling would be remodeled to convert the first floor living area into an attached garage. The petitioner has stated that the residence was constructed with the attached garage that was enclosed to create the current living area, and the remodeling would be simply removing the walls filling in the garage door openings. Doing so would leave the only living area on the second floor, which would be a 2-bedroom residence.

Per Assessor records, the first-floor area of the existing dwelling is 804± sq. ft., with a total area of 1,640± sq. ft. In the proposed remodel, the living area of the second floor is approximately 776± sq. ft. with stairway to the ground level. The stairway would not directly access the garage.

For reference, staff was not able to find any permits related to the construction (the Assessor records show a 1945 construction year, well before building and zoning records), nor the conversion of the garage to living space.

The code requires a minimum total floor area of 950 sq. ft. for a residence, with 700 sq. ft. on the main floor, so a variance of 174± square feet for the total floor area and a variance of the entire minimum main floor area are requested to permit the proposed living area.

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;**

While this proposal is a return to an as-built floor plan, the proposed variance could be injurious since minimum floor areas are established to protect public health by ensuring adequate living area for the population at large. That said, if the current arrangement of living space in a converted garage does not adequately meet current building and health code requirements, its removal may actually be positive despite the smaller floor area.

**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**

This variance will not likely affect the use and value. The external appearance of the structure would be relatively the same as currently, although with the addition of garage doors. If outside storage becomes prevalent due to the small living area, that may affect the surrounding area.

**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 may or may not result in practical difficulties. The code establishes a minimum floor area to protect public health. Unlike some cases in which the reduced floor areas are intended to be temporary, this floor plan would be permanent and would affect both the petitioner and future occupants and owners. However, in the current situation of being two apartment units, neither unit meets the minimum 950 sq. ft.

Further, the small area of the lot, combined with its irregular shape, make constructing a new code-compliant residence difficult without need for some variance, be it floor area or setback. The proposed may be a minimal variance request.

Finally, the return to as-built conditions often do present practical difficulties despite the adequacy of the structure when originally constructed. As this appears to be the case here, the historic nature of the building is more evident than if this were non-compliant new construction. Given this apparentness, additional notice, as has been a condition in prior cases, may not be necessary here.

Date report prepared: 12/12/2024

**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					



Nelson, Rob; Tedeschi, Monica; Bosmans, Paulette & Goldwood, Michelle L  
Hockerman, David E & Kathy S  
Wright, Kevin W & Christi  
Tipton, Claude G & Diana L And Davisson  
Richard A & Shane  
Leonard, Christopher & Emily  
McCoy, Michael T M & McCoy, Rebecca  
Ritumalta-White, Julie A  
ESTATE CAMP RD

Mckee, Donald C  
Mckee, Donald C  
Mckee, Donald C

Green, Richard Allen

Dietz, Carl D & Jennifer L  
Dietz, Carl D & Jennifer L  
Pearce, Ronald A & Catherine L  
Pearce, Ronald A & Catherine L  
Kunkle, Peggy L  
Kunkle, Peggy L  
Miller, Adrian M & Casey M

Pearce, Ronald A & Catherine L

Fox, Michael K & Teresa K  
Fox, Michael K & Teresa K  
Miller Cabinet Company Inc

Pearce, Ronald A & Catherine L

Heinzelmann, Thomas Alan  
Heinzelmann, Thomas Alan  
Miller Cabinet Company Inc

Miller J Cabinet Co Inc

Butler, Mary Jo & Butler, Rodney F

Norden, Greg A & Lory Ann  
Norden, Greg A & Lory Ann  
Hood, Cathryn L  
Hood, Cathryn L

Marschand, Steven & Sherral

Hess, Jeffrey L & Lynda D

Franklin, Keith L  
Franklin, Keith L

Marschand, Steven & Sherral

5805 N. 350 E., Llc

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Lee, Joby L  
Christner, Laura

Huth, Barbara D  
Ayres, James M & Dawn L

Lee, Joby L

Riddle, Marvin Erick & Donna J

Burchett, Danny

Dietz, Jessica Marie

Lopshire, Gary J & Carolyn E

Zimmerman, Max Edwin Jr & Linda K

Boliaux, Michael Edward

McGhee, Ian M

Bell, Michael L & Rebecca Ann

Smith Township

Driver, Michael D & Jennifer M

Driver, Michael D & Jennifer M

Brooke, Callie M

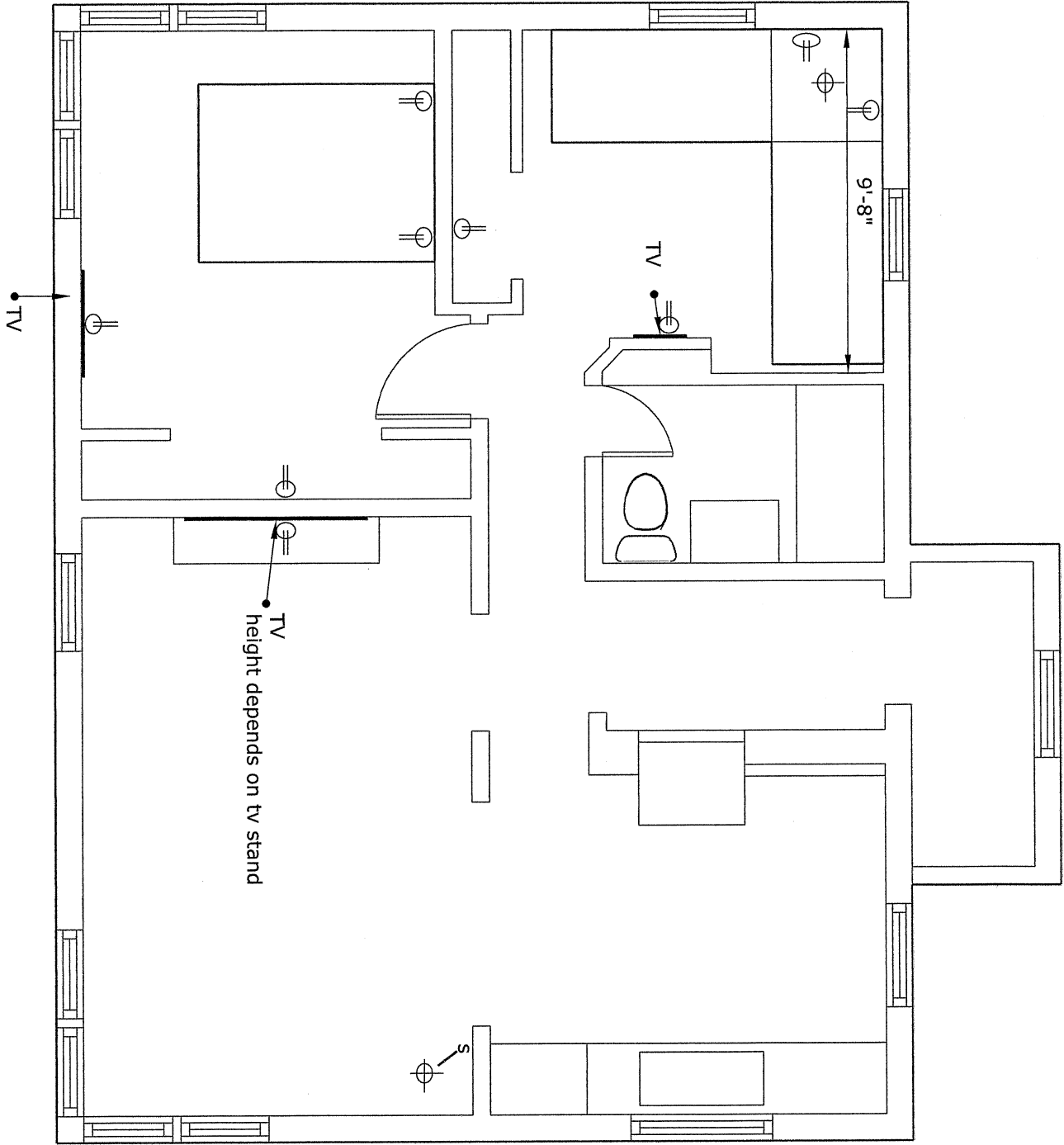
Walters, Amy S & Nichols William T

Owen, William F & Kim B

Green, Richard Allen & Paula Sue

Green, Tara A & Brett A

Owen, William F





Search Google Maps

5733 County Rd 380 E  
Columbus, Indiana  
Google Street View  
Jul 2023

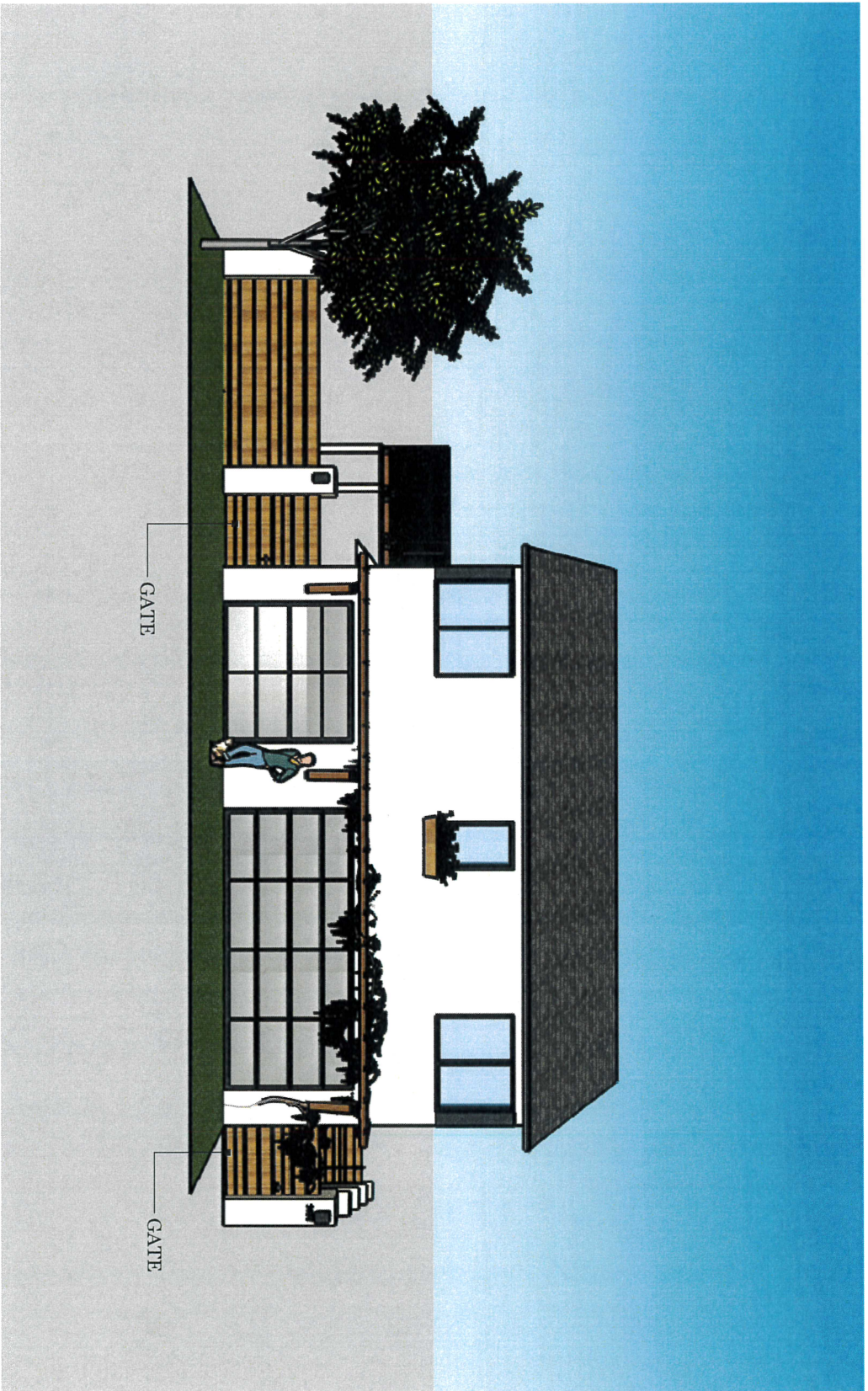


Wintercounter Company, Inc

5733  
Google

Share





BURNELL GUMP  
 5805 County Rd. 350 E  
 Columbia City, IN



**Gump Interiors**  
 Imagine · Design · Transform

EXTERIOR COLOR, GARAGE DOORS - TBD  
 WORK IN PROGRESS

REVISIONS

	MM/DD/YY	REMARKS
1	--/--/--	...
2	--/--/--	...
3	--/--/--	...
4	--/--/--	...
5	--/--/--	...