

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

25-W-VAR-3 DEVELOPMENT STANDARDS VARIANCE
Noel & Kathlene Johnson
3408 E. Sherman Street

**JANUARY 28, 2025
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture
Property area: 10,382 sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance for encroachment into the required side setback, and utility easement, to allow for construction of a three-season room addition. The property is located at 3408 E. Sherman Street in Section 17 of Union Township. The parcel is Lot 67 of Lincoln Pointe, Section 3, platted in 2005, and is improved with a residence and shed.

As proposed, a 10' x 14' three-season room addition would be constructed onto the rear (south) side of the house. The intent is to construct the addition on the existing patio and pergola location.

Note that no permit nor variance was found for the existing pergola, so its location is presumed to be nonconforming.

For corner lots, as this property may be defined, the zoning code requires a front setback on the frontages and side setbacks on the remaining sides. The required side setback for the property is 10 feet, which is coincidental to a platted utility easement. As proposed, the structure location would have a 5' setback, resulting in a 5'± variance from the code requirement and an encroachment into the platted easement.

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 variance could be injurious to the public safety, given its proximity to the property line and neighboring structures.

There does not appear to be evidence that public health and morals would be affected.

As with any variance, the general welfare may be injured by degradation of the effectiveness of the zoning code if there are not site-specific difficulties for the variance.

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 could substantially and adversely affect the value of the area adjacent to the property as properties throughout Lincoln Pointe generally do not have similar encroachments by buildings, and particularly not to the 5' proposed. The effect on value of the property to the south could also be substantial because of the visual impact of the reduced separation between the proposed addition and the adjacent house.

Further, the encroachment past the platted easement line may cause a disparity among other lot owners that could create value or use concerns with their lots. If this encroachment results in utilities

being placed disproportionately on the adjacent lot to the south, it seems that it would have a substantial effect that the petitioner avoids.

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 could result in practical difficulties, as the remaining buildable area on the subject lot is extremely tight, and a building addition of virtually any size would likely need a variance, unless it were placed off the northwest side of the house.

The construction of the existing nonconforming pergola may have led the petitioner to incorrectly assume that the proposed addition would be compliant. However, as the petitioner appears to have constructed the pergola, this does not seem to be grounds for being a practical difficulty.

Date report prepared: 1/22/25.

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

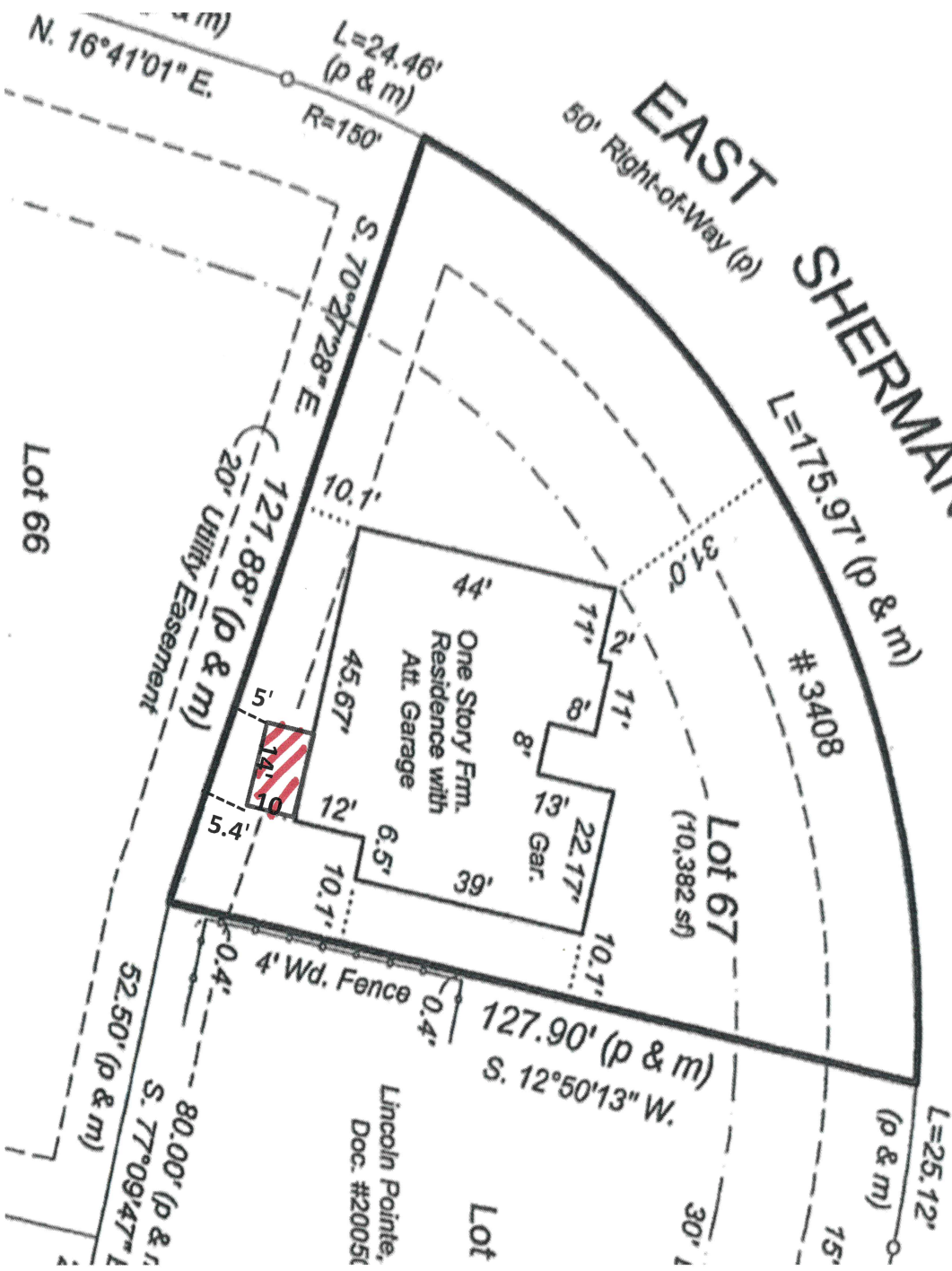
	Green		Sheiss		Wilkinson		Wolf		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion: Grant
 Grant w/conditions
 Deny

By: _____ Second by: _____

	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

EAST SHERMAN STREET



Rouch,
Peter A

Zickafoose,
Diane M

Davidson,
D'Ambra

Danner, Hyon

Kolkman,
Crystal A &
Hearld, Josh

Grigsby,
Tyson & Ann

Busche,
Joel D

E SHERMAN ST

Newkirk,
Jeffrey A
& Jamie L

Johnson,
Noel A &
Kathlene M

McGuire,
Kristine
Adrienne

Johnson,
Russell D &
Maureen K

Williams,
David &
Gloria

Deckard,
Elizabeth

Wallen,
Courtney

Clark, Bradley
T & Joleen K

Rosado Feliciano, Edgard
Adrian & Santiago
Garcia, Jessica

Prince-Swanson,
Catherine J

E SHERMAN ST

McCurdy,
Justin A
& Kelli A

Coate, Seth
& Samantha

Cochlin, John

Ashley,
Rodney A &
Jewel L

