

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

25-W-VAR-8 DEVELOPMENT STANDARDS VARIANCE

Diane Johnson
791 E. Spear Road

APRIL 22, 2025

AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 11,330± sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance for a modification of lot dimensions for the property located at 787 and 791 East Spear Road in Section 3 of Thorncreek Township. The property is comprised of Lots 5 and 6 of Robert Spears' Second Addition to Crooked Lake, recorded in 1926. While platted as separate lots, they are owned in common and are combined as a single tax parcel.

The property is improved with a residence on each lot, along with residential appurtenances. The dwellings are listed by the Assessor as being constructed in 1950 (Lot 5, address 787) and 1972 (Lot 6, address 791), although the 1965 aerials and Auditor valuation records suggest both dwellings predate the establishment of zoning regulations in 1972. Both structures have various legal nonconforming setbacks as measured from the platted lot lines.

The petitioner requests to reconfigure the platted lots in order to permit a residential bedroom addition on the west side of 791. Lot 5 then would be sold separately from the revised Lot 6. The proposal would add some area to Lot 6 from Lot 5; however, the new lot line has a jog in it to avoid an existing staircase. Because this is trading land area between existing lots and not creating a new building site, replatting is not required.

The existing, proposed, and required lot dimensions and side setbacks are shown below, with proposed variances underlined in bold:

	Code	Lot 5 existing	Lot 6 existing	Lot 5 proposed	Lot 6 proposed
Side setbacks	5'	0.2'/18.5'	3.5'/10.4'	0.2'/8.5'	10'/10.4'
Lot area	10,000 sq.ft (5,000 sq. ft. per dwelling)	5,600± sq. ft.	5,600± sq. ft.	<u>5,001 sq. ft.</u>	6,329 sq. ft.
Lot width	70'	40'±	40'±	<u>37.5'±</u>	42.5'±
Lot frontage	50'	40'±	40'±	<u>35.07'</u>	46.34'

As seen above, several of the proposed standards are nonconforming. Only those three that are being reduced from the existing legal nonconforming values require variances, while the others may be treated as making the site more conforming. However, a reversion back to platted conditions would need a variance.

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 or morals, as the requested lot width reduction would still permit minimum and legal nonconforming side setbacks from the existing

structures. Even with the proposed building addition on Lot 6, the minimum side setback would be maintained.

Since these are on public sewer, a possible effect on public health due to undersized septic system locations is not applicable, and the lot width and frontage are reflective of the current improvements. Public health could be affected by reducing the available livable area, although the proposal is still above the minimum area per dwelling unit.

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

It is not expected that this variance will adversely affect the value of the area adjacent to the property as properties as the lot standards deviations would be relatively imperceptible and would maintain at least the current setbacks. The use of the surrounding area would not be affected as the proposed changes are internal to the property owned by the petitioner.

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 since the residences and lots predate the establishment of zoning in the county, let alone the current zoning standards, and well before the petitioner's acquisition. While the proposal does have several nonconforming standards, it does seem to minimize the variances requested to accommodate the desired building addition.

Date report prepared: 4/16/25

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

	Vote: 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:

By:

Second by:

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



Wilson, Gary
M & Lisa B

Wilson, Gary
M & Lisa B

Gross,
Christopher
T & April R

Johnson,
Diane M

Brouwer,
Christopher L

Bud and Hilda's
Little Crooked
Place LLC

Bud and Hilda's
Little Crooked
Place LLC

Juergens,
Daniel H
& Gina A

Wilson, Gary
M & Lisa B

Cochran, Joseph
D & Dorothy M

Brouwer,
Christopher L

Brouwer,
Christopher L

Johnson,
Diane M

Johnson,
Diane M

Balay, Mark S
& Catherine

Balay, Mark
S Trustee

Wilson,
Gary M &
Lisa B

Snyder,
Douglas D

Koester,
Richard J

Casa Del
Lago, LLC

Casa Del
Lago, LLC

Gross, Christopher
T & Gross, April R

Hoffman, Michael
J & Lynne M

Barva, Miles
G & Colleen E

Craig, Barry
W & Barbara J

Childers,
Eugene A Jr
& Loretta

Childers,
Eugene A Jr
& Loretta

Wilson, Gary
M & Lisa B

Runkle,
Rachelle A

Juergens,
Daniel H
& Gina A

Runkle,
Rachelle A

Juergens,
Daniel H
& Gina A

Bud and Hilda's
Little Crooked
Place LLC

Gatesworth Shores
Association, Inc.

Engh, Kenneth R
& Ann L

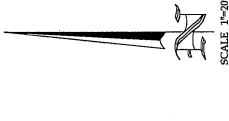
Engh, Kenneth R
& Ann L

Norden,
Nathaniel D
& Karis L

Bills, Leslie
Brian &
Vanessa

Fitch, Michael
R & Cynthia A

Heuer,
James R &
Kathleen M



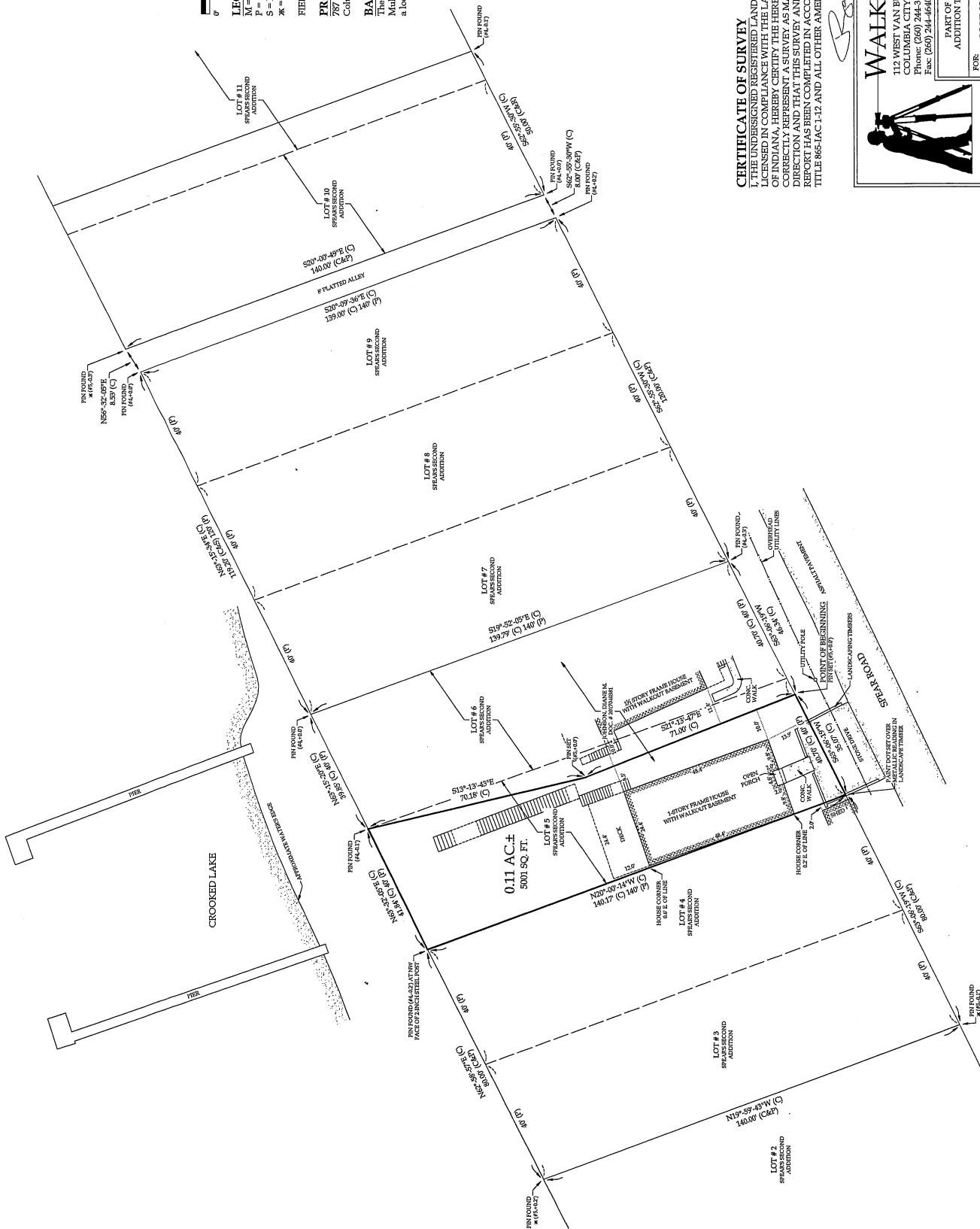
LEGEND
M = MEASURED
P = PLAT
S = PER REFERENCE SURVEY
X = WALKER MONUMENT
C = CALCULATED
R = RECORDED

FIELD WORK COMPLETED ON 03-27-2025

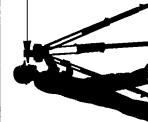
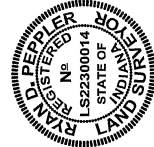
PROPERTY ADDRESS
727 E Spear Road
Columbia City, IN 46725

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 in 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 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.



WALKER & ASSOCIATES

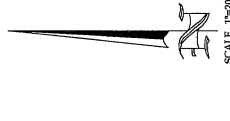
112 WEST VAN BUREN STREET
COLUMBIA CITY, IN 46725
Phone: (260) 244-3640
Fax: (260) 244-4640
www.walkersurveying.net
E-mail: mail@walkersurveying.net

PART OF LOT NUMBERS 5 IN ROBERT D. SPEARS SECOND ADDITION TO CROOKED LAKE, WHITLEY COUNTY, INDIANA

FOR: **JOHNSON, DIANE M.**

LAND SURVEYING,
CIVIL ENGINEERING,
& LAND PLANNING

SCALE: 1"=20'
DATE: 03-28-2025
DRAWN BY: WCG
PAGE: 4 OF 4
DRAWING NUMBER: SE-134 "A"



LEGEND
M = MEASURED
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X = WALKER MONUMENT

FIELD WORK COMPLETED ON 03-27-2025

PROPERTY ADDRESS

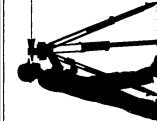
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Columbia City, IN 46725

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CERTIFICATE OF SURVEY

I, THE UNDERSIGNED REGISTERED LAND SURVEYOR
OF THE STATE OF INDIANA, HAVE BEEN
DULY SWORN AND HAVE CORRECTLY
REPRESENTED 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.



WALKER & ASSOCIATES

113 WEST VAN BUREN STREET

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E-mail: mail@walkersurveying.net

LOT NUMBER 6 AND PART OF LOT NUMBER 3 IN ROBERT D. SPEARS
SECOND ADDITION TO CROOKED LAKE, WHITLEY COUNTY, INDIANA

FOR: JOHNSON, DIANE M.

LAND SURVEYING,
CIVIL ENGINEERING,
& LAND PLANNING

SCALE: 1"=20'
DATE: 03-28-2025
PAGE: 3 OF 3

DRAWING NUMBER
SE-134

