

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

**18-W-VAR-7      DEVELOPMENT STANDARDS VARIANCE**  
Kristan Weiss  
2631 E. Lakeview Ave.

**JUNE 26, 2018  
AGENDA ITEM:    3**

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**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential  
Property area: 0.11 acres

The petitioner/contractor is requesting a development standards variance for the encroachment into the required rear and side yard setbacks to allow for the construction of an attached garage with second story addition on behalf of his mother, Candace. The property is located at 2631 E. Lakeview Avenue, on the south side of Little Cedar Lake.

As proposed, the new construction would include a 390 square foot attached garage with a second floor addition of equal size above the garage, located on the west side of the existing residence. The petitioner is requesting a left side yard setback of 10", resulting in a 4'2" variance from the required 5'. He is also requesting a road side setback of 4'. Because this is a lakefront property, the rear yard setback of 15' applies to the road side of the property, resulting in an 11' rear variance.

There appears to be an unpermitted 10' x 16' shed located on the road side that may need to be addressed along with this petition.

**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 will not likely be injurious to the public health, morals, and general welfare as dwellings have similar encroachments throughout the LR zoning district without significant effect. However, encroachments of less than 1' may pose concern over public safety, particularly for fire safety. The building code will have added requirements to aid in fire prevention, but access around the property may be a concern. Additionally, the road side setback of 4' may be a safety concern when exiting the garage onto Lakeview Avenue.*
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 use and value of the area adjacent to the property as similar properties in the LR district have similar encroachments of similar structures which have not resulted in any apparent adverse effect on the use and value of the adjacent area. The proposed construction may limit the owners of the property directly adjacent in regards to visibility as well as the ability for future construction.*
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 result in practical difficulties since the proposed attached garage is suggested as necessary due to the age of the petitioner's mother. Further, garages are a common and typically expected part of a single-family dwelling.*

Date report prepared: 6/15/18, JS. Reviewed: 6/19/18, NB.

**BOARD OF ZONING APPEALS ACTION**

Motion:

By:

Second by:

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***Vote:***   **Deckard**   **Denihan**   **Klein**   **Wilkinson**   **Wright**

*Yes*

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*No*

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*Abstain*

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