

WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT

22-W-VAR-2 DEVELOPMENT STANDARDS VARIANCE
Denise McCann
1278 E. Pressler Road

FEBRUARY 22, 2022
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 7,335± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required rear (road) setback on their property located at 1278 East Pressler Road in Thorncreek Township. The property is Lot 2 of the First Addition to Emmitt V. Pressler's Original Plat to Crooked Lake, recorded in 1944.

The petitioner has proposed to remove the existing carport and construct an attached garage addition. The addition would extend along the existing dwelling's side setback and would be 3.8' from the road right-of-way line.

The existing carport is approximately 4.2' from the right-of-way and enjoys legal nonconforming status since it was constructed at or near the same time as the dwelling (1950). Its removal removes the status and so new construction must be in conformance or a variance be obtained.

Since this lot has lake frontage, the rear setback standard applies to the street side. The required minimum rear setback is 15'. Thus, a 11.2' variance would be required.

A variance was granted in 2009 for the dwelling to the east, which permitted a 5.1' setback from the road right-of-way for an addition.

Based on the Best Available map information and topography, the structure would be located outside 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;

The proposed variance will not likely be injurious to the public health and morals as improvements with encroachments exist throughout the zoning district without apparent injury.

Public safety could be injured if the reduced setback impairs accessibility along Pressler Road, as it is a long dead-end road. Given that the proposed improvement would have roughly the same setback as the 70-year-old carport, it is not likely that the access along the road would be significantly affected.

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 use and value of the area adjacent to the property as similar properties in the LR district have similar structures with encroachments.

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 practical difficulties. The proposal is to replace a legal nonconforming carport with an attached garage, essentially changing a covered parking area to an enclosed parking area. Given the age of the dwelling, there are few, if any, other locations on the property for covered or enclosed parking that would be compliant with setback standards.

Construction of a new compliant dwelling would resolve that, but that could be a practical difficulty.

Date report prepared: 2/14/22

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

Vote:	Denihan	Lopez	Wilkinson	Wolf	Wright	
	Yes	No	Yes	No	Yes	No
<i>Criterion 1</i>						
<i>Criterion 2</i>						
<i>Criterion 3</i>						

Motion: Grant

Grant w/conditions

Deny

By:

Second by:

Vote:	Denihan	Lopez	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					



