

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

20-W-VAR-6 DEVELOPMENT STANDARDS VARIANCE
Site, Inc.
Lots 168, 187, Lincoln Pointe Section 5

JULY 28, 2020
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Zoning: RR, Rural Residential
Property area: 23,392± sq. ft.

The petitioner, developer of Lincoln Pointe, is requesting a development standards variance to allow for encroachment into a required front yard setback on Lots 168 and 187 of the currently under development Section 5.

These two lots are located on the corners of Butler Court and Sherman Street. Because of the dual frontage, the lots have front yard setbacks on both roads. As proposed on the plat, the lots would have a 20' "side setback" along the Sherman Street frontage, which would be used if the houses to be built front Butler Court (which they are expected to do). For purposes of zoning, simply showing on the plat that this is a side setback on the plat does not negate the code's definition that the lot has two front yards. Hypothetically, the reduced side setback on the plat may be useful for enforcement of certain covenants and restrictions.

This arrangement for a narrower second front setback on corner lots was recorded on the plat of Lincoln Pointe Section 4 (2014), but not in Sections 1-3, recorded in 1997, 2001, and 2005. The petitioner has indicated that the post-2008 housing market has favored 3-car garages, which the requested additional 10' of buildable width would accommodate. For reference, about 80% of the houses in Section 4 have 3-car garages, versus in the previous sections, where about 8% have them.

In order to address the zoning code requirement, requested is a variance for a 20' front ("side") yard setback along Sherman Street.

Also note that the front setbacks in Lincoln Pointe have been "grandfathered" at 30' as part of the original plat approval, despite the code now requiring 35' front setbacks for lots with public sewer and water.

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 setback variances will not likely be injurious to the public morals, as a building setback is not likely to cause, allow, or otherwise be related to moral issues.

Public health and safety can be injured by a reduction in setbacks due to the increased fire risk and reduced light, air, and access to and around the primary structures. In this case, the lots front a public street so proximity to other structures is not at issue. Safety along the street is also not injured, as the larger setbacks are intended to provide adequate off-street parking, which promotes on-street safety. Since these are corner lots, the frontage on the lesser street Butler Court, would have the driveway and off-street parking. Further, a 20' setback should still comply with the required sight visibility triangle at the street intersection.

The general welfare may be injured by degrading the effectiveness of the zoning regulations if there are not peculiarities specific to this property or proposal that differentiate this site and conditions from other properties generally.

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

The proposed setback variances would be unlikely to adversely affect the value of the properties in the surrounding area, as the overall usage of the property for single-family residential is not changing, and the proposed variance is minimal. The use of the immediately adjacent properties may be affected, as the subject lots could have primary structures built to nearer Sherman Street than houses on the adjacent lots, causing a disparity in the potential usage of the lots. However, such disparity may not be substantially adverse.

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.

Generally finding practical difficulties in any variance for a new development can be problematic since the design of new development should be able to be incorporate the code requirements, and so such requests are often self-imposed. However, this property has been designed for many years, with some infrastructure already installed based on that engineering. As discussed above, market changes have affected the design of this section, creating these narrower than desirable lots.

The desire for these lots to accommodate larger houses may be self-imposed, as smaller houses without 3-car garages could fit on the lots without variance. However, the apparent demand for such houses is a function of the market broadly and so would not be self-imposed.

Date report prepared: 7/13/20

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

	Vote: Denihan		Lopez		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>										

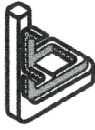
Motion:					By:					Second by:				
Vote:	Denihan	Lopez	Wilkinson	Wolf	Wright									
<i>Yes</i>														
<i>No</i>														
<i>Abstain</i>														

20-W-VAR-6

BZA VARIANCE REQUESTS FOR
LOTS 168 & 187 OF LINCOLN POINTE SECTION 5
REDUCED CORNER LOT SIDEYARD SETBACK
FROM 30' REQUIRED TO 20' PROPOSED

PREPARED BY:

JULY 1, 2020



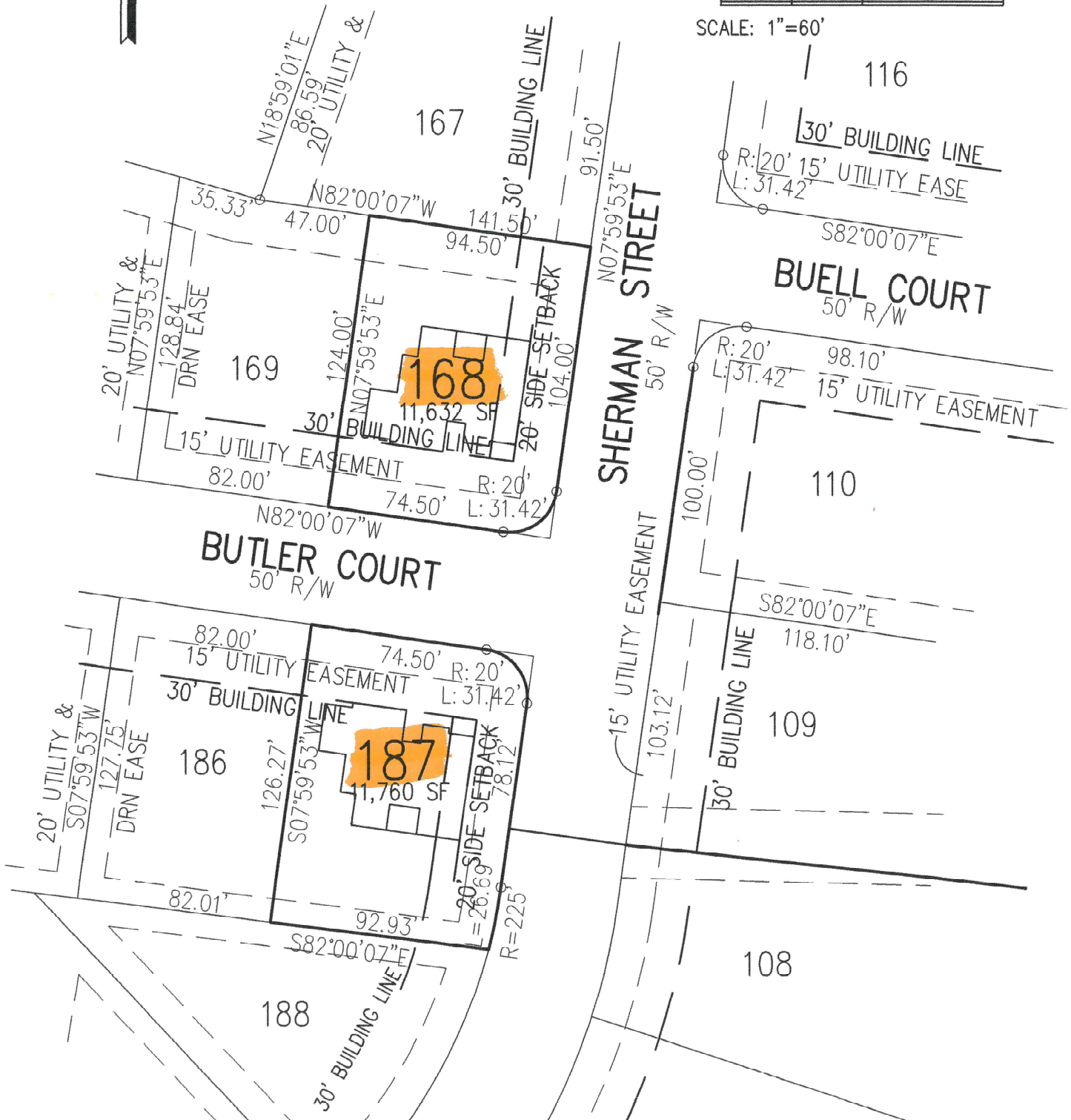
LOUGHEED & ASSOCIATES, INC.

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0 30 60 120

SCALE: 1"=60'



Krider,
Randall S

Krider,
Randall S

Goodin,
Bradley A &
Kimberly A

2724

The Commissioners
of Whitley
County, Indiana

E 100'S

Haddock, Matthew & Amanda

Faulkner,
Virginia K. (Trustee)

Lamle,
Hollie J

S 300 E

Site Inc

Rouch, Peter A.

13140

1121

FO

Rouch, Peter A & Lisa R

Bayman,
Charles H. &
Marcie A.

Faron M

Hoppe, Pamela S
& Van Houten,
Steven W

**Hoppe, Pamela S.
& Van Houten,
Steven W.**

Gilbert,
Jordan D

Church Of Jesus Christ
Lds Lds Church
Tax Admin-22ndfl

Pittenger,
Valory J.

niel, Katie

Harman, John
& Rebecca

**Lincoln Pointe
Homeowners
Association Inc**

Lincoln Point
Homeowne
Association

Lincoln Pointe
Homeowners
Association, Inc.

Lincoln Pointe
Homeowners
Association Inc.

Deckard, Elizabeth

McCurdy,
Justin A &
Kelli A



EUS 30