

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

20-W-VAR-11 DEVELOPMENT STANDARDS VARIANCE

Philip & Kathryn Ehinger

7488 N. Brown Road

NOVEMBER 24, 2020

AGENDA ITEM: 1

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**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential

Property area: 10,450± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front setbacks on their property located at 7488 North Brown Road. The property is comprised of the north 40'± of Lot 61 of the West Shore Addition to Loon Lake Resort (platted 1938). The lot has been split in this fashion since at least the 1960s, and possibly much earlier. It is located on the southeast corner of Brown Road and Maple Lane.

The petitioner has proposed to demolish the existing dwelling and replace it with a new one. Per the submitted plot plan, the structure would be 5' from the south property line, 5' from the north line at its nearest point, 44.8' from the west line, and approximately 125' from the east line. The existing dwelling is roughly 2.5' from the south line and 6' from the north line, but the legal nonconformances would be removed with its demolition (except for certain provisions allowed under state code).

Since this lot has lake frontage, front setback standards apply to the lake side, with rear setbacks on the opposite, typically road, side. However, this is also a corner lot, meaning that the Maple Lane road frontage could have a front setback, or a rear setback if reversed.

The required minimum front setback is 35', while the rear setback is 15', so application of either standard would result in an encroachment. The averaging rule permissible in §5.03(D) does not result in any change in the setback. Assuming a 15' setback, a 10' variance is then requested.

Finally, it is worth noting that as proposed, the structure would be located about 12' outside from 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 variances will not likely be injurious to the public health, morals, and general welfare as improvements with encroachments such as the proposed exist throughout the zoning district without apparent injury, including the existing dwelling. Further, this proposal shifts the setbacks away from the south property line, which increases accessibility around the property and makes the new structure more compliant with fire/building code requirements.

**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. The proximity to Maple Lane could be problematic to the use of the road, but the proposed setback is less than 1' closer than the existing one. So it is not likely that any impact would be particularly substantial.

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 would result in practical difficulties. Applying a 35' front setback to the Maple Lane frontage would eliminate all usable area of the maximum 40' wide lot. Being as the lot narrows from east to west, the buildable width would actually be a negative number for part of the lot. Applying the 15' rear setback results in a 20' wide (or less) dwelling. While that is not an uncommon dwelling width at the lakes, it would be narrower than the existing legal nonconforming dwelling which is permitted to be reconstructed under state statute.

Date report prepared: 11/16/20

#### BOARD OF ZONING APPEALS ACTION

##### Findings of Fact Criteria

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

Motion:

By:

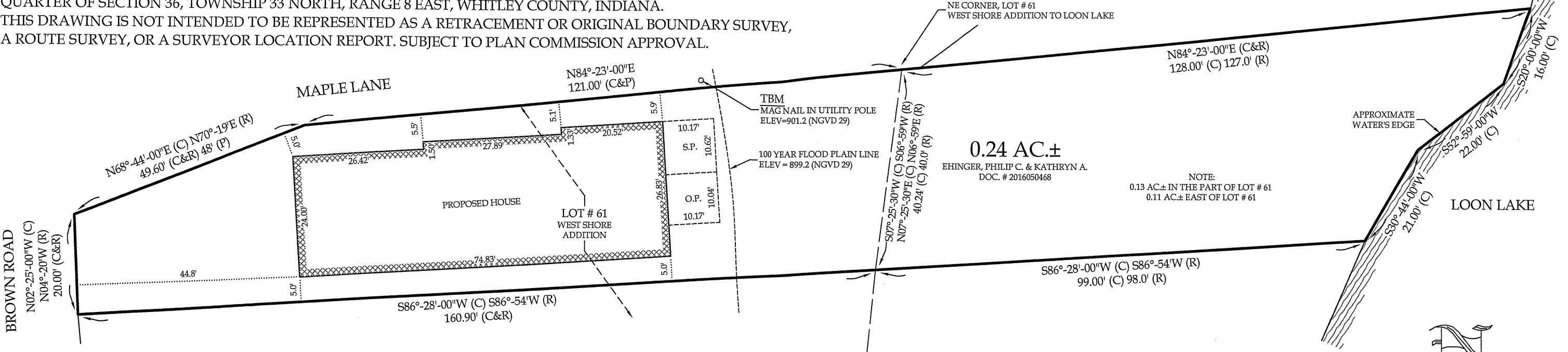
Second by:

<b>Vote:</b>	<b>Denihan</b>	<b>Lopez</b>	<b>Wilkinson</b>	<b>Wolf</b>	<b>Wright</b>
Yes					
No					
Abstain					

PLOT PLAN

PREPARED FOR PHILIP C. & KATHRYN A. EHINGER & J & K CONTRACTORS

SITUATED IN THE PLAT OF WEST SHORE ADDITION TO LOON LAKE AND IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA. THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT. SUBJECT TO PLAN COMMISSION APPROVAL.



LEGAL DESCRIPTION

(Per Document Number 2016050468)

THE NORTH PART OF LOT NUMBER 61 IN WEST SHORE ADDITION TO LOON LAKE, WHITLEY COUNTY, INDIANA, TO WIT:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID LOT NUMBER 61; THENCE S06°-59'W, ALONG THE EAST LINE OF THE SAID LOT, A DISTANCE OF 40.0 FEET; THENCE S 86° -54'W, A DISTANCE OF 160.9 FEET TO THE WEST LINE OF SAID LOT; THENCE N 04°-20'W, ALONG THE WEST LINE OF THE SAID LOT, A DISTANCE OF 20.0 FEET TO THE NORTHWEST CORNER THEREOF; THENCE N 70°-19'E, ALONG THE NORTH LINE OF THE SAID LOT, A DISTANCE OF 49.6 FEET; THENCE N 84°-23'E, ALONG THE NORTH LINE OF THE SAID LOT, A DISTANCE OF 121.0 FEET TO THE POINT OF BEGINNING.

ALSO, A PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA, TO WIT:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID LOT NUMBER 61; THENCE N 84°-23'E, ALONG THE NORTH LINE OF THE SAID LOT EXTENDED EAST, A DISTANCE OF 127.0 FEET TO THE SHORELINE OF LOON LAKE; THENCE S 35°-30'W, ALONG THE SAID SHORELINE, A DISTANCE OF 57.5 FEET; THENCE S 86°-54'W, A DISTANCE OF 98.0 FEET TO THE EAST LINE OF THE SAID LOT NUMBER 61; THENCE N 06°-59'E, ALONG THE SAID EAST LINE, A DISTANCE OF 40.0 FEET TO THE POINT OF BEGINNING, CONTAINING 0.11 ACRES OF LAND, MORE OR LESS.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. Low-lying areas adjacent to Loon Lake appear to be situated in Zone "A", which is in a flood plain. The remainder of the surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0045C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

ZONING REQUIREMENTS

Zoned: "LR" Lake Residential District  
Minimum Lake Yard Setback: 35 feet  
Minimum Side Yard Setback: 5 feet for both the primary structure and accessory structures  
Minimum Rear Yard Setback: 15 feet for both the primary structure and accessory structures  
(Source: Whitley County GIS and Whitley County Zoning Ordinance)

LEGEND

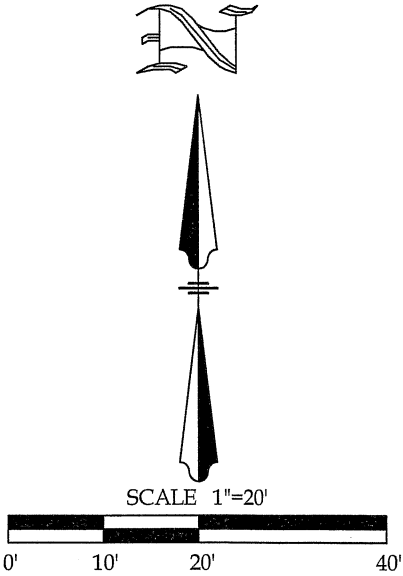
M = MEASURED C = CALCULATED  
P = PLAT R = RECORDED  
⌵ = WALKER MONUMENT

PROPERTY ADDRESS

7488 N Brown Road  
Columbia City, IN 46725

BASIS OF BEARINGS

The basis of bearings for this drawing is a platted bearing of N84°-23'-00"E for the North line of Lot Number 61 in West Shore Addition to Loon Lake, Whitley County, Indiana.



LAND SURVEYING,  
CIVIL ENGINEERING,  
& LAND PLANNING

WALKER & ASSOCIATES

112 WEST VAN BUREN STREET  
COLUMBIA CITY, IN 46725  
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www.walkersurveying.net  
E-mail: mail@walkersurveying.net

PART OF LOT NUMBER 61 IN WEST SHORE ADDITION TO LOON LAKE, TOGETHER WITH PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 33 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA

FOR:

EHINGER, PHILIP C. & KATHRYN A.

SCALE: 1"=20'

DRAWN BY: KRM

DRAWING NUMBER

DATE: 11-3-2020

PAGE: 1 OF 1

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