

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

21-W-VAR-16 DEVELOPMENT STANDARDS VARIANCE
Robin Cadwallader
7672 N. Brown Road

SEPTEMBER 28, 2021
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 4,200± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front setback on their property located at 7672 North Brown Road in Etna Troy Township. The property is Lot 19 of Ida Z. Fahl's Addition to the West Shore Resort of Loon Lake (recorded 1944).

The petitioner has proposed to remove the existing dwelling and replace it with a 30'x52' dwelling. The existing dwelling crosses the lakeside property line, but its removal and replacement would remove the legal nonconforming status. As proposed, the new dwelling would be 4' from the lakeside property line at the nearest point, 6.3' on each side, and 21.7' from the roadside property line.

Since this lot has lake frontage, front setback standards apply to the lake side, with rear setbacks on the opposite, typically road, side. The averaging rule permissible in §5.03(D) results in a calculated setback of approximately 12', so the proposed 4' setback would not be compliant. The required minimum front setback for the district is 35', resulting in either an 8' or 31' variance being requested.

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 such as the proposed exist throughout the zoning district without apparent injury.

As has been discussed in previous cases, the reduction of setbacks to less than 5' will require additional construction measures to be taken to meet the building code requirements. In this case, the setback reduction is along the non-developed lake side of the lot, with sufficient room for access around the building. So, this should not injure the public safety for the purpose of this variance.

The 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 value and use of the area adjacent to the property as similar properties in the LR district have similar structures with encroachments, including several within the average setback calculation distance. Also, the proposed setback is not significantly different from the existing dwelling, so the change in setback should not be particularly noticeable.

The proposed placement of the proposed structure about 2' from the shared driveway may impact the use of those properties using that driveway for access. However, that effect is not caused by the variance being requested.

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. The shared drive and sewer line located in the western 25' of the lot reduce the small and irregular buildable area of the lot. It does appear possible to reduce the proposed dwelling depth by 8' to meet the averaged setback. The Board should discuss the effects of doing so with the petitioner to see if this variance request could be minimized or avoided altogether.

Date report prepared: 9/22/21

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

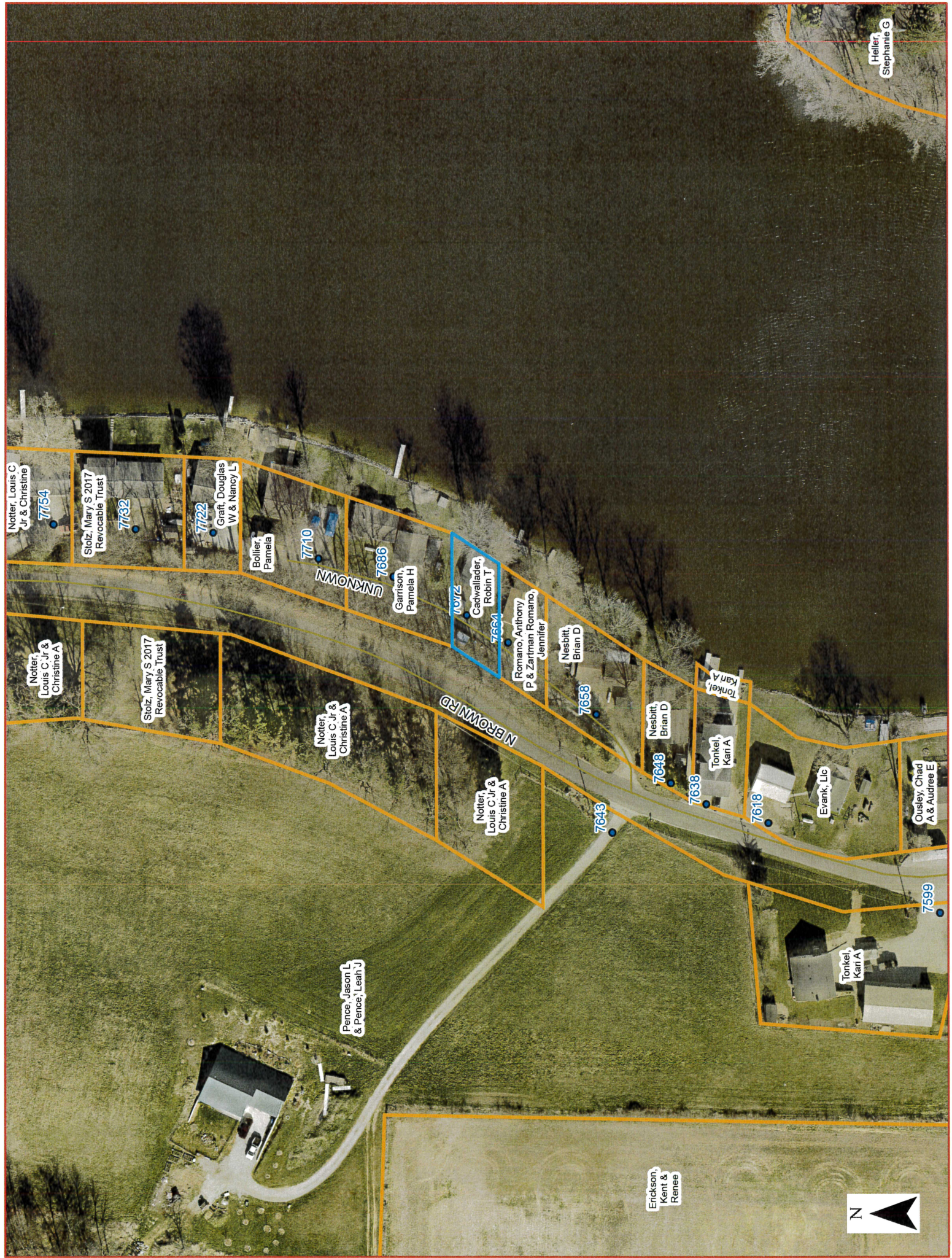
	Vote: Denihan		Lopez		Wilkinson		Wolf		Wright	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
Criterion 1										
Criterion 2										
Criterion 3										

Motion: ☐ Grant
☐ Grant w/conditions
☐ Deny

By:

Second by:

Vote:	Denihan	Lopez	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					



Erickson,
Kent &
Renee

7599

Tonkel,
Kari A

Ousley, Chad
A & Audree E

Evank, Lic

7618

Tonkel,
Kari A

7638

7643

Nesbitt,
Brian D

7638

Nesbitt,
Brian D

Romano, Anthony
P & Zartman Romano,
Jennifer

7634

10072

Catwaller,
Robin T

7686

Garrison,
Pamela H

7710

Bohier,
Pamela

7722

Graft, Douglas
W & Nancy L

7732

Stolz, Mary S 2017
Revocable Trust

7754

Notter, Louis C
Jr & Christine

Pence, Jason L
& Pence, Leah J

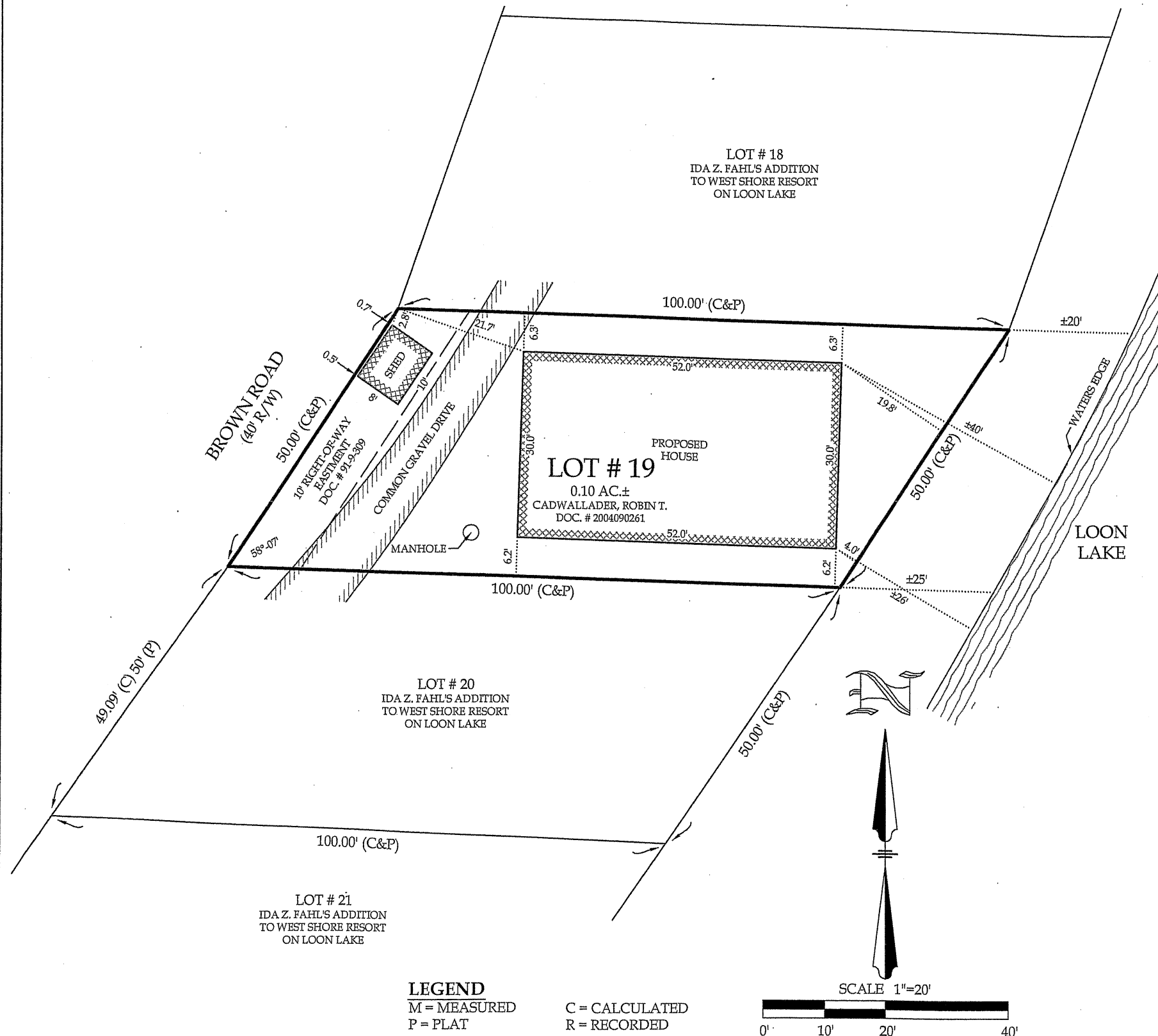
Heller,
Stephanie G

PLOT PLAN

PREPARED FOR
ROBIN T. CADWALLADER

SITUATED IN LOT NUMBER 19 IN IDA Z. FAHL'S ADDITION TO THE WEST SHORE RESORT OF LOON LAKE, 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.



PROPERTY ADDRESS

7672 N Brown Road
Columbia City, IN 46725

LEGAL DESCRIPTION

Lot Number 19 in Ida Z. Fahl's Addition to the West Shore Resort of Loon Lake as recorded in Plat Book B, page 6 in the office of the Recorder of Whitley County, Indiana

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 Front Yard Setback: 35 feet from lake front

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)



LAND SURVEYING,
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WALKER & ASSOCIATES

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LOT NUMBER 19 IN IDA Z. FAHL'S ADDITION TO THE WEST SHORE
RESORT OF LOON LAKE, WHITLEY COUNTY, INDIANA

FOR:

CADWALLADER, ROBIN T.

SCALE: 1"=20'

DRAWN BY: KRM

DRAWING NUMBER

DATE: 8-23-2021

PAGE: 1 OF 1

AG-142 "B1"

NOTICE OF PUBLIC HEARING

RECEIVED

Notice is hereby given, that the Whitley County Board of Zoning Appeals shall hold a public hearing on Petition 21-W-VAR-16 filed by Robin T. Cadwallader requesting a

SEP 21 2021
23 NB

development standards variance for an encroachment into the required front yard setback

for the following described real estate, to-wit:

LOT 19 IDA Z FAHL'S ADD
S36-T33-R8
0.25 ACRES

Located on the east side of N. Brown Road, approximately 1,180' north of N. Maple Lane, in Section 36 of Etna-Troy Township.

This hearing will be held at 220 W. Van Buren Street, Whitley County Government Center, Columbia City, Indiana on Tuesday, September 28, 2021 at 7:30 p.m. All interested persons are invited to attend and be heard. Written comments will be considered if they are received in the office of the Columbia City/Whitley County Joint Planning-Building Dept located at 220 West Van Buren Street, Suite 204, Columbia City, Indiana no later than 12:00 Noon on the day of the hearing. A copy of the proposal is on file in the office of the Columbia City/Whitley County Joint Planning-Building Dept for examination before the hearing. The Board may continue the hearing from time to time as may be found necessary.

Recording Secretary

Whitley County Board Of Zoning Appeals

9/21/21

I have no objections to this variance.

Robert H. Garrison