WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT

21-W-VAR-19 **DEVELOPMENT STANDARDS VARIANCE** **NOVEMBER 23, 2021**
Dallas & Pamela Lay **AGENDA ITEM:** 1
Across from 2368 E. Schram Ave, north side of the west end of Schram Ave.

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 7,000± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front setback on their property located across from 2368 East Schram Avenue in Section 11 of Thorncreek Township. The property is Lot 5 of Farrens Sub-Division (recorded in 1950). The property is currently improved with a 12'x16' shed located about 2.8' from the Schram Ave. right-of-way; a gravel parking area exists to the north and east of the shed.

The petitioner has proposed to construct a 20'x20' carport on the south side of the lot. The structure would be approximately 3.5' from the Schram Avenue right-of-way and 5' from the east property line. The structure would be located over part of the existing gravel parking area; the existing shed would remain.

Since this lot does not have lake frontage, but does have frontages on both Wilcken Road and Schram Avenue, front setback standards apply to both road sides. The required minimum front setback for the LR district is 35', so the proposal is not compliant. The averaging rule of §5.03(D), if it may be applied to non-lakefront lots, results in a calculated setback of approximately 22.5', so the proposed setback would still not be compliant.

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.

   Safety could be injured if the proposed structure obscures vehicular visibility or creates an impediment to safe vehicular travel. Since Schram Ave. is a short dead-end road and the only properties owned by the petitioner are accessed at the west end, and carports do not inhibit visibility, the reduced setback likely would not have injurious effect on public safety.

   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 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.

The construction of a carport on this lot may affect the lot to the east due to an overhead cable crossing the lot. If the structure were compliant with the required setback, it would avoid the overhead cable. However, if the cable can be moved or not impacted by the construction of this structure, the effect would not be 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 may or may not result in practical difficulties. The plat created Schram Ave. with a 15' right-of-way, which could be considered an alley in most cases, but was platted as a street. If it were an alley, a rear setback of 15' would apply, and the variance would be smaller. Also, the subject lot and the petitioner's house lot to the south of Schram Ave. have been in common ownership and presumably used as one for at least 40 years.

   Additionally, the petitioner desires to reuse the existing gravel area as the base for this structure; shifting it northward for conformance would increase the amount of stone that would be needed for the new structure.

   It does appear to staff that there is sufficient room to move the structure to the north to comply with either the 35' setback or the 22.5' averaged setback without other difficulty. Doing so would avoid the overhead utility line and permit additional accessibility around the lot. The petitioner should explain any difficulties arising from moving the carport northward.

Date report prepared: 11/15/21

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					

J.K. Walker & Associates, P.C.

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William D. Kyler, P.S.
Kevin R. Michel, P.E. & P.S.
112 West Van Buren Street, Columbia City, IN 46725
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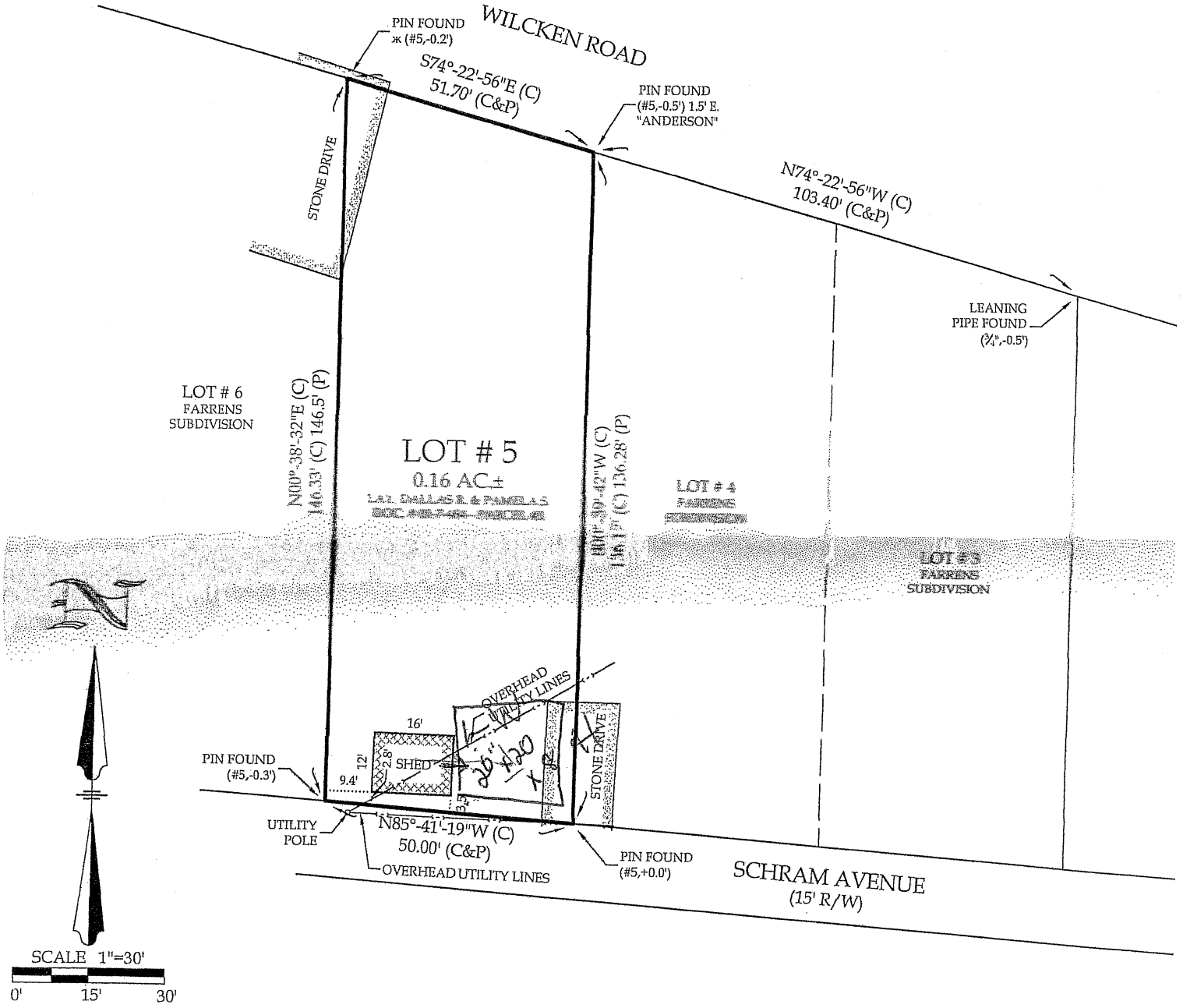
PLAT OF RETRACEMENT BOUNDARY SURVEY

THIS DOCUMENT IS A RETRACEMENT BOUNDARY SURVEY OF REAL ESTATE PREPARED UNDER TITLE 865 IAC 1-12 IN CONFORMITY WITH ESTABLISHED RULES OF SURVEYING AND MADE IN ACCORDANCE WITH THE RECORDS ON FILE IN THE OFFICE OF THE RECORDER. THE LAND DESCRIBED EXISTS IN FULL DIMENSIONS AS SHOWN HEREON IN FEET. CORNERS WERE PERPETUATED AS INDICATED.



LEGEND

M = MEASURED
C = CALCULATED
P = PLAT
R = RECORDED

GPS NOTE

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

Landis, Steven E & Mary Ann
Bodey, Robert G
Clark, Donald L III & Jennifer S
Bodey, Robert G
Maggert, Carey Michael
Reed, Richard
Tri Lakes Baptist Church Inc
Ewing, Kevin
E NEUHAUS RD
Ewing, Kevin
Moore, Billy W & Linda J
Tri Lakes Baptist Church Inc
Guisinger, Carl W & Nancy J
E SHIRLEY AVE
Schroeder, Scott A; Schroeder, Shawn M; Schroeder, Shane P
Guisinger, Carl W & Guisinger, Nancy J
Schroeder, Scott A; Schroeder, Shawn M; Schroeder, Shane P
Schroeder, Thomas J & Laurell E
Schroeder, Thomas J & Laurell E
Densel, Deborah L; Garrison, Catherine M; Campbell, Bradley T
Densel, Deborah L; Garrison, Catherine M; Campbell, Bradley T
Usher, Hal D & Barbara A, Co-Trustees U/D/T Dated April 20, 1998, F/B/O The Usher Revocable Trust
Usher, Hal D & Barbara A, Co-Trustees U/D/T Dated April 20, 1998, F/B/O The Usher Revocable Trust
Pulver, Jerry R & Vonda L
Meyers, Susan L
Bireley, Brittney L & Zachary S
Ranly, Thomas P
Ranly, Thomas P
Creason, Clifford G & Sarah J
E SCHRAM AVE
Seigel, Laraina J
Creason, Clifford G & Sarah Jane
Lay, Dallas R & Pamela S
Lay, Dallas R & Pamela S
Blake, Gregory & Margaret
Straub, James L Jr & Straub, Debra
Straub, James L Jr & Debra S
Mcomber, Karl W & Mary E
Mcomber, Karl & Mary
E WILCKEN RD
Culver, Chris & Debra
Culver, Chris & Debra
Bertholf, Christopher M & Bertholf, Kendall D
Cline, John & Connie
Atkinson, Daniel J & Penny J
Alles, Larry J Revocable Trust
Atkinson, Daniel J & Penny J
Alles, Larry J Revocable Trust
Alles, Larry & Patricia
Goble, Marvin A & Jane A
Meyers, Christopher C