

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

18-W-VAR-8 DEVELOPMENT STANDARDS VARIANCE
Michael and Linda Ann Grable
2055 E. Crampton Road

**JULY 24, 2018
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 0.42± acres

The petitioner is requesting a development standards variance for the encroachment into the required setback to allow for the construction of a gazebo structure. The property is Lots 17 and 18 of Crampton's Cedar Lake Addition, at 2055 E. Crampton Road, on the south side of Cedar Lake.

As proposed, the gazebo would be approximately 10'x14', located north (lakeward) of the existing residence. The petitioner is requesting a setback of 15' from the property line to roughly align the proposed structure with the existing shed. Because this is a lakefront property, the front yard setback of 35' applies to the lake side of the property resulting in a 20' variance.

Note that the existing 12' x 16' shed was permitted in May 2005, with a proposed setback of 36' from the lake property line. Based on 2005 aerial photography, it appears that the shed has always been in its current location, approximately 15' from the property line. Because its placement did not conform to the permit application information, the shed is not legal nonconforming. If it desires to do so, the Board may also consider findings regarding the placement of that shed as well as the requested gazebo.

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, safety, morals, and general welfare as other accessory structures have similar encroachments throughout the LR zoning district without significant effects.
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 encroachments of similar structures which have not resulted in any apparent adverse effect on the use and value of the adjacent area.
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 result in practical difficulties due to the location of the sanitary sewer line and 25' easement preventing the location of the proposed gazebo at a compliant setback. The other obvious setback-compliant location, at the east end of the residence, is likely infeasible for construction due to the slope of the lake bluff. However, it does appear that the requested variance could be minimized by shifting the location of the proposed gazebo nearer the residence while still avoiding the sewer easement.

Date report prepared: 7/17/18, NB.

BOARD OF ZONING APPEALS ACTION

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