

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

**18-W-VAR-9      DEVELOPMENT STANDARDS VARIANCE**  
Burnell Gump  
Approx. 5804 N 350E

**JULY 24, 2018**  
**AGENDA ITEM:    3**

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**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential  
Property area: 2.39± acres

The petitioner is requesting a development standards variance for the encroachment into the required front setback to allow for the construction of a garage with living quarters. Because of the living space, the proposed structure must be treated as a single-family dwelling. The property is located on the east side of CR 350 East, across from the petitioner's primary residence at 5805 N 350E.

As proposed, the building would be 30'x60' 5-car garage with 1,000 sq. ft. of living space on the second floor. An 8' deep overhang/porch would extend around the southern half of the building. It would be located approximately 16' from the right-of-way line, roughly no closer than the existing garage. The existing garage would be demolished. The required front setback is 35', resulting in a 19' variance request.

**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 single-family dwellings have similar encroachments throughout the LR zoning district without significant effects. The orientation of the building arranges the driveway in a manner that maneuvering of vehicles would not occur on the public road any more than other driveways. The size and scale of the proposed structure as a garage is somewhat different from others in the area, but as a dwelling, the 1,000 sq. ft. area is comparable to other lake area dwellings.*
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. There is a natural drainage course that appears to run, at least in part, over the southern part of the property, so the petitioner should be aware that changing the drainage may impact adjacent properties.*
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 desire to minimize the loss of trees during in the construction of this structure by keeping the construction in mostly cleared areas. Shifting the structure eastward 20' to comply with the 35' setback would result in the loss of at least one large shade tree. Shifting the structure to the south to avoid that tree could impact others, as well as possibly affect the overall property drainage. While the overall size of the*

*proposed structure could be reduced to avoid the trees, the area of the dwelling must comply with the required minimum of 950 sq. ft.*

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

**BOARD OF ZONING APPEALS ACTION**

Motion:

By:

Second by:

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***Vote:***   **Deckard**   **Denihan**   **Klein**   **Wilkinson**   **Wright**

*Yes*

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*No*

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*Abstain*

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