

WHITLEY COUNTY BOARD OF ZONING APPEALS  
STAFF REPORT

19-W-VAR-11    DEVELOPMENT STANDARDS VARIANCE

Judith Bruck  
2693 E. Lakeview Ave.

AUGUST 27, 2019

AGENDA ITEM: 1

---

**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential

Property area: 4,240± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required rear (street side) and side setbacks on their property located at 2693 East Lakeview Avenue. The property is Lot 15 of the Cedar Lake Addition to Tri-Lakes Resort.

The petitioner has proposed a 14'x24' detached garage to replace an existing 10'x20' garage/shed. Per the submitted plot plan, the new garage would be located with the same setbacks as the existing garage: 2.8'± from the west property line and 9' from the Lakeview Avenue right-of-way line. Because of the demolition of the garage, the legal nonconforming setbacks would be removed as well.

Since this lot has lake frontage, rear setback standards apply to the street side. The required minimum rear setback is 15' and side setback is 5', necessitating a request for a 6' rear variance and a 2.2' side variance.

**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 detached garages with encroachments such as the proposed exist throughout the zoning district. The proposed rear setback is identical to the existing garage and comparable to the road side setbacks of several other properties Lakeview Ave. and throughout the LR district, and should not injure the public safety on the road or cause further safety issues. The proposed reduced side setback, even though it matches the existing garage, may be a concern for public safety given the width of the lot. Prevention of fire spread and access to the property are major safety considerations. The Board should strive to enhance public safety where possible, especially in the densely developed pre-building code areas.

**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.

**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 petitioner desires to maintain visibility of the driveway from the house. As proposed, there would be approximately 24' between the house and the new garage; shifting the structure to the north by 6' to be compliant would place the structure roughly 18' from the house. While this may block the view of the driveway, but it seems that the proposed increased size of the garage by itself would restrict visibility anyway. There appears to be sufficient distance to the east to shift the proposed structure about 2.2' to

comply with the required 5' side setback. The increased safety of a compliant setback may outweigh the reduced visibility.

Date report prepared: 8/20/19

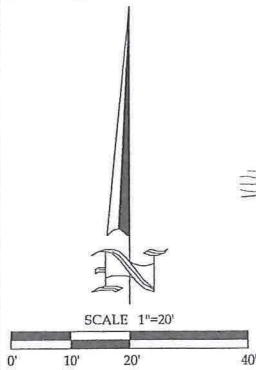
### BOARD OF ZONING APPEALS ACTION

#### Findings of Fact Criteria

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

Motion: \_\_\_\_\_ By: \_\_\_\_\_ Second by: \_\_\_\_\_

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



#### LEGEND

M = MEASURED C = CALCULATED  
P = PLAT R = RECORDED  
\* = WALKER MONUMENT

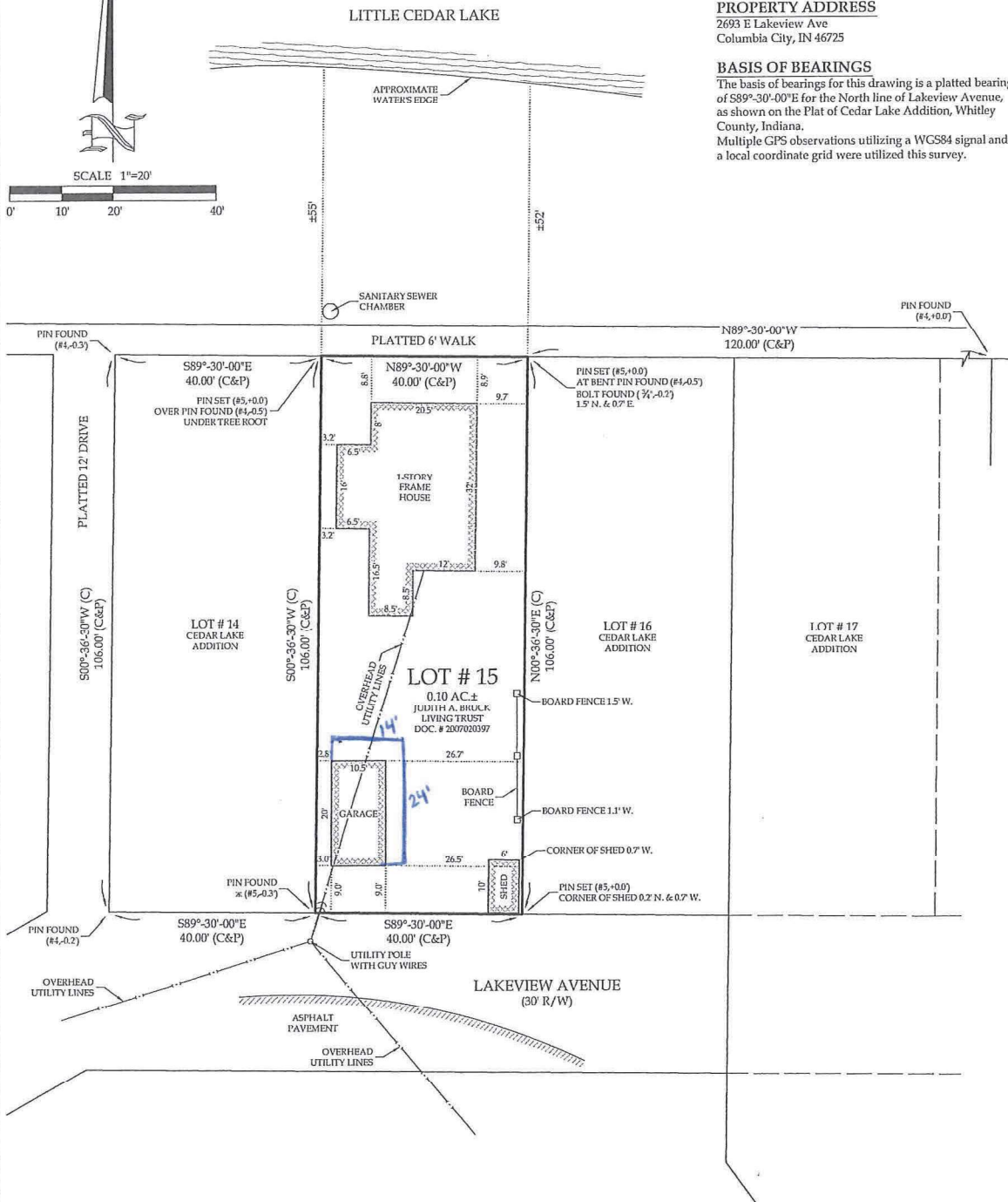
FIELD WORK COMPLETED ON 7-3-2019

#### PROPERTY ADDRESS

2693 E Lakeview Ave  
Columbia City, IN 46725

#### BASIS OF BEARINGS

The basis of bearings for this drawing is a platted bearing of  $S89^{\circ}-30'-00''E$  for the North line of Lakeview Avenue, as shown on the Plat of Cedar Lake Addition, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.



#### CERTIFICATE OF SURVEY

I, THE UNDERSIGNED REGISTERED LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE HEREON PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTION AND THAT THIS SURVEY AND ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC 1-12 AND ALL OTHER AMENDMENTS THERETO.



**WALKER & ASSOCIATES**  
112 WEST VAN BUREN STREET  
COLUMBIA CITY, IN 46725  
EST. 1984

Phone: (260) 244-3640  
Fax: (260) 244-4640

www.walkersurveying.net  
E-mail: mail@walkersurveying.net

LAND SURVEYING, CIVIL ENGINEERING,  
& LAND PLANNING

LOT NUMBER 15 IN CEDAR LAKE ADDITION TO TRI-LAKES,  
WHITLEY COUNTY, INDIANA

FOR:

BRUCK, JUDITH A. (LIVING TRUST)

SCALE: 1"=20'

DRAWN BY: RDP

DRAWING NUMBER

DATE: 7-26-2019

PAGE: 3 OF 3

RK-125



