

WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT

19-W-VAR-12 DEVELOPMENT STANDARDS VARIANCE
Daniel and Penny Atkinson
2240 E. Wilcken Road

AUGUST 27, 2019
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 0.86± acre

The petitioner is requesting a development standards variance for an encroachment into the required front (lake side) and side setbacks on their property located at 2240 East Wilcken Road. The property is on the south side of Wilcken Road, 1,200' west of Center Street.

The petitioner has proposed a 20'x20' shed to replace an existing shed. Per the submitted plan, the new shed would be located with approximately the same setbacks as the existing shed: 1'± from the west property line and 15' from lake side property line. Because of the demolition of the existing shed, the legal nonconforming setbacks would be removed as well. The location of the shed is within the regulatory floodplain; the proposed structure would comply with the regulations of the flood code.

The petitioner owns the adjacent property to the west. Since the property is not combined as one, and since the proposed improvement does not cross the property line, the required side setback is enforced.

Since this lot has lake frontage, front setback standards apply to the lake side. The required minimum front setback is 35' and side setback is 5', necessitating a request for a 20' front variance and a 4' 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, safety, morals, and general welfare as sheds and other buildings exist with front setback encroachments elsewhere in the area and throughout the zoning district without injury. Injury caused by the side setback encroachment is mitigated by the petitioner owning the adjacent property. Public flood safety may be affected by the construction of an improvement in the floodplain, but that is mitigated or minimized by the application of the flood code regulations.

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 result in practical difficulties. The subject property is completely located within the floodplain, which restricts construction of most improvements. Reusing the site of the existing structure would somewhat minimize the impact on the floodplain, although the proposed structure is larger than the existing. Relocation of the structure elsewhere on the property, or

on the petitioner's adjacent property, would be prevented by water, wetlands, existing structures, other setbacks, or would have greater encroachment into the floodplain.

Date report prepared: 8/20/19

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

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

Motion:

By:

Second by:

Vote:	Deckard	Denihan	Lopez	Wilkinson	Wright
Yes					
No					
Abstain					

Registered Professional Engineers and Land Surveyors
Indiana Land Surveying Firm Identification Number: 29A

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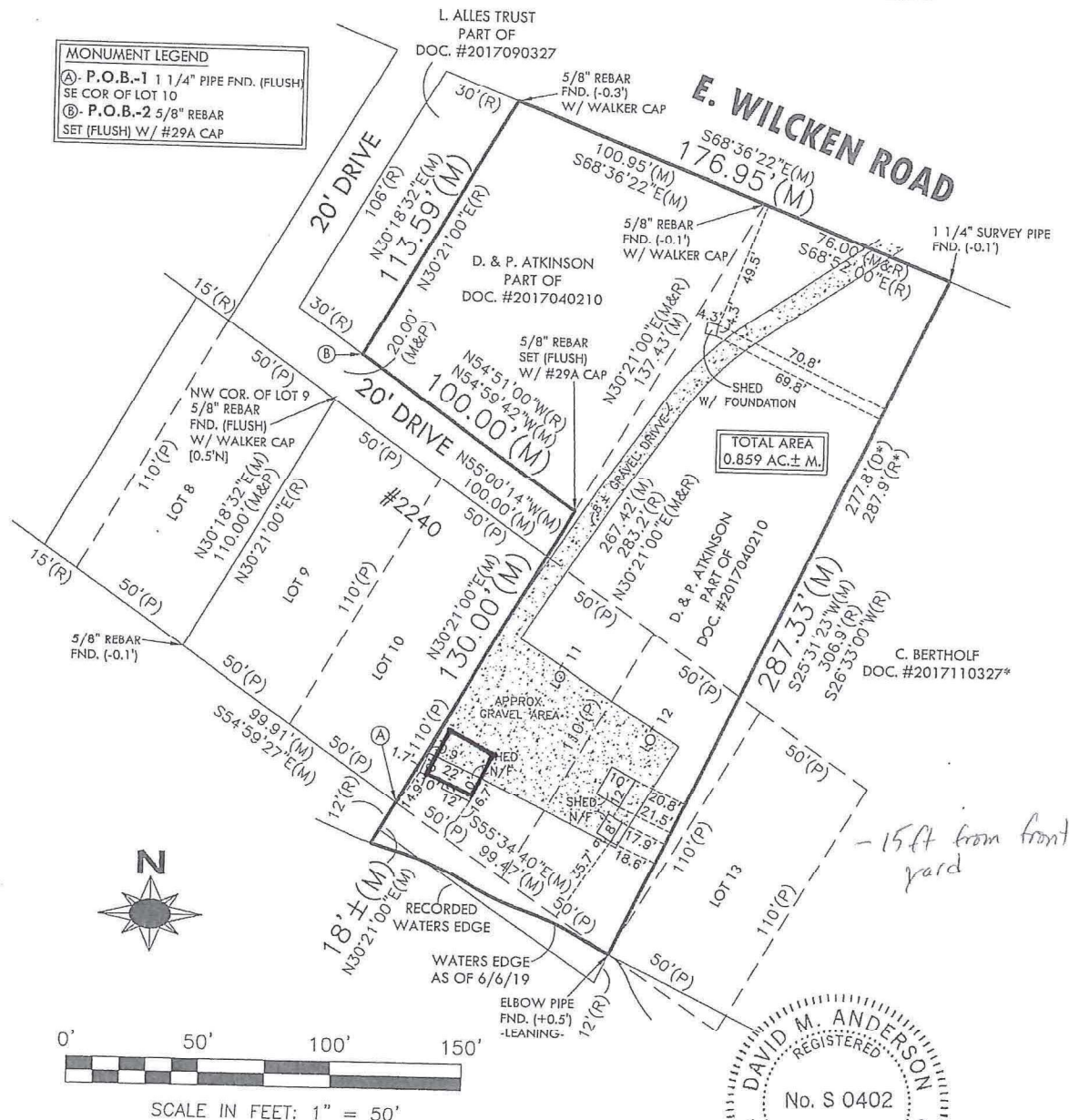


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(JUNE 2019 / 19-05-124)

This document is a retracement survey of a parcel of land located in Whitley County, Indiana.
SEE PAGE 2 OF 2 FOR THE SURVEYOR'S REPORT AND LEGAL DESCRIPTION.



Survey Number: 19 - 05 - 124



David M. Anderson, P.E., L.S.

