WHITLEY COUNTY BOARD OF ZONING APPEALS STAFF REPORT

19-W-VAR-13 DEVELOPMENT STANDARDS VARIANCE

Larry Goble 6523 S. 400 East SEPTEMBER 24, 2019 AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural Property area: 1.28 acres

The petitioner is requesting a development standards variance for an encroachment into the required side setback on their property at 6523 South 400 East, located on the east side of 400 East, about ½ mile south of State Road 14 in Jefferson Township.

The petitioner proposes to construct an addition on the north side of the existing residence. Per the submitted plot plan and information, the addition would be approximately 18'x 44', and would include area for a garage expansion, bathroom, storage area, and home office.

As proposed, the addition would be located 20' from the north property line. The required minimum side setback for a primary structure is 25', so a variance of 5' is being requested.

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, and morals, as houses with attached garages do not typically have such injurious effects, and the petitioner's property in this case continues to allow sufficient light, air, and access to and around the dwelling. The general welfare may be injured by degrading the effectiveness of the zoning code if there are not site-specific circumstances that necessitate the requested placement of the addition.

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 the side setback distance has little bearing on the overall property value of the subject property and surrounding area. The use of adjacent properties will also not be affected in a substantially adverse manner by the request since the property to the north that would be most affected is a 50' wide strip to a greater body of the parcel to the east. As such, the adjacent parcel would likely only be used for access, and the proposed 5' encroachment would be unlikely to affect that usage.

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 proposed location of the addition originates from the desire to add garage space to the existing attached garage, which is located on the north side of the house. There is sufficient room elsewhere on the property to construct the proposed space, so this is not a hardship, but the placement of the house and attached garage does present a practical difficulty. Additionally, if the petitioner were construct an $18'x\ 44'$ detached accessory structure, the code would permit the structure a 10' side setback. Thus, a similarly-sized structure of the same configuration of usable space could be built at the same location

on the property and still have a 10' separation to the existing house. This arises from the strict application of the terms of the Ordinance in how primary and accessory structures are treated.

Date report prepared: 9/18/19

BOARD OF ZONING APPEALS ACTION

| Motion: | | | | В | y: |
|---------|---------|---------|-------|-----------|--------|
| Vote: | Deckard | Denihan | Lopez | Wilkinson | Wright |
| Yes | | | | | |
| No | | | | | |
| Abstain | | | | | |

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

Civil Engineering and Land Surveying Jerry K. Walker, P.E. & L.S. William D. Kyler, L.S. Kevin R. Michel, P.E. & L.S. 112 West Van Buren St., Columbia City, IN 46725 Phone 244-3640 Fax 244-4640

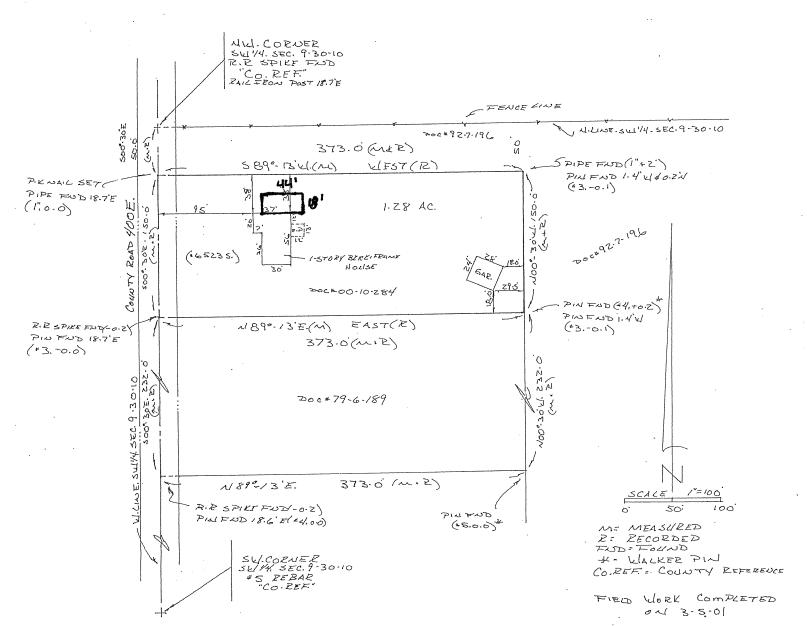
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CERTIFICATE OF SURVEY

This document is a record of a resurvey of land and real estate prepared in conformity with established rules of surveying and made in accordance with the records or plat on file in the Recorder's office of $\underline{Whitley}$ County, State of Indiana. The land with the records or plat on file in the Recorder's office of County, State of Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from encroachments by adjoining land owners unless specifically stated below. Corners were perpetuated as indicated.

DESCRIPTION OF REAL ESTATE

See page 2 of 3 for Legal Description. See page 3 of 3 for Surveyor's Report.



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.

 $\frac{2001}{}$ that the above survey is correct. I hereby certify on the $\underline{-0.6 \, \text{th}}$ day of $\underline{-}$ March Raymond E. Capehart Revocable Trust Surveyed for:

Survey No.:

KA-131 _

P. MICHEL No.870006 MDIANE TWO SURVE

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