

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

20-W-VAR-2 DEVELOPMENT STANDARDS VARIANCE

Myron Green
2760 E. Colony Avenue

MARCH 24, 2020

AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 8,050± sq. ft.

The petitioner, owner of the subject property, is requesting a development standards variance for an encroachment into the required front (street side) and side setbacks on the property located at 2760 East Colony Avenue. The property is a part of Outlot 1 of the Beech Park Addition to Tri-Lakes Resort in Thorncreek Township.

The petitioner is constructing a 20'x24' lean-to on the north side (street-side) of the house. Per the submitted plot plan, the new construction would be 10.4' from the street right-of-way line (roughly 15.5' from the edge of pavement) and 3.1' from the east property line.

Since this lot does not have lake frontage, front setback standards apply to the street side. The required minimum front setback is 35' and side setback is 5', necessitating a request for a 24.6' front variance and a 1.9' 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 dwellings with encroachments such as the proposed exist throughout the zoning district without injurious effect.

However, the location of this property on a major through road does make this request different from most others in the LR district that are located on low-volume, low-speed local roads. The encroachment here could be injurious to the public safety and general welfare if it impacts travel on the public road.

It is unlikely that the side setback encroachment will be injurious since there is an access way to the east of the subject property.

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 similar properties in the LR district have similar structures with encroachments. However, use may be impacted if the nearness of the structure impacts the usability of Colony Avenue.

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. There is a legal drain tile to the south of the existing house that precludes the ability to construct any new structures to the south, which can mean that any new construction must be to the north. However, the

need for a carport/lean-to is not a requirement of the code, so this could be viewed as a self-imposed condition.

The side setback is a function of the size of the proposed structure. The 2019 Residential Building Code does have stipulations on the setback of structures from the property line, which this request would encroach into. Even if there are practical difficulties that arise from the zoning side setback, the building code requirements would still apply.

Date report prepared: 3/17/20

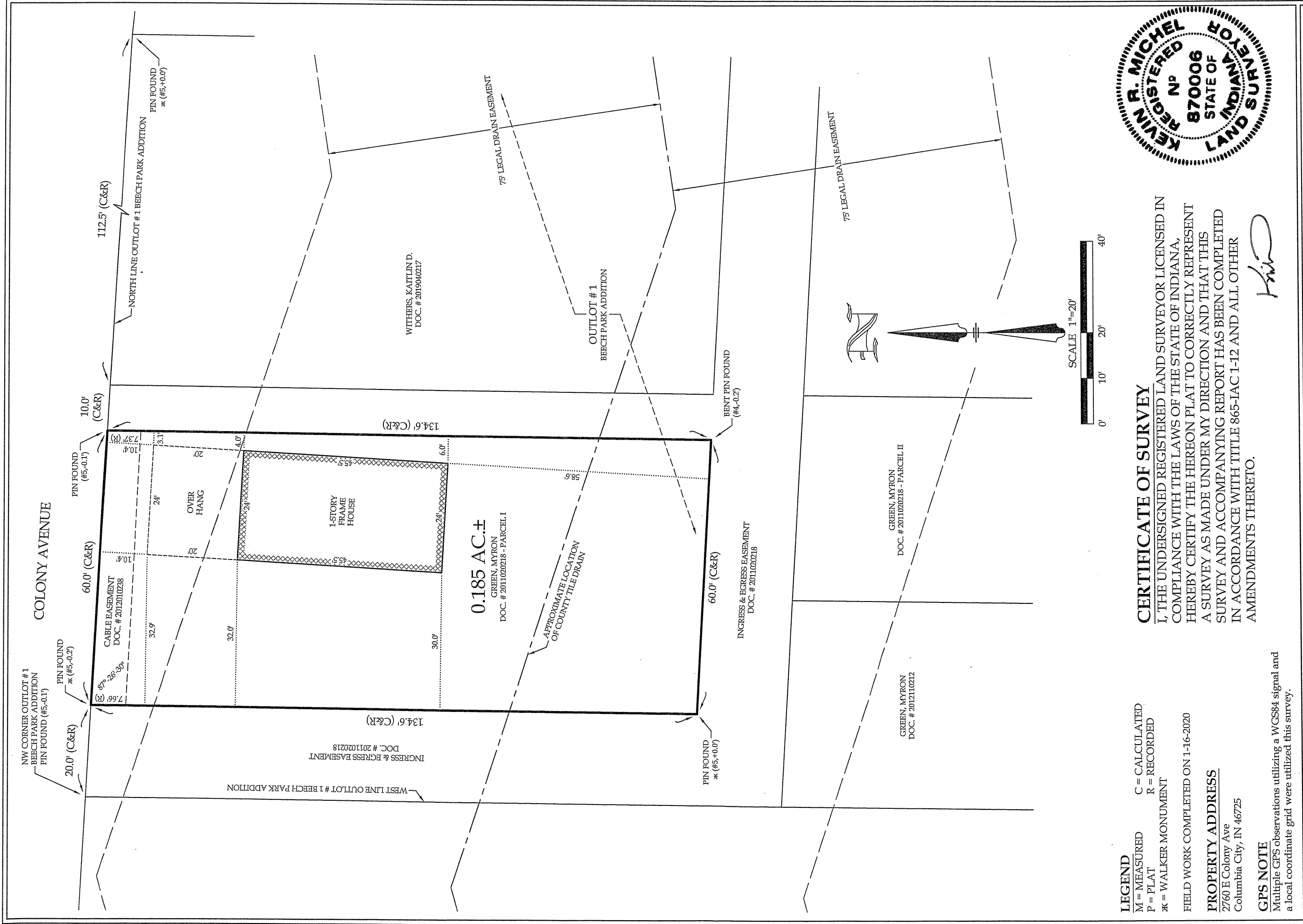
BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

	Vote: Denihan		Lopez		Wilkinson		Wolf		Wright	
	<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: _____

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



LEGEND
M = MEASURED
P = PLAT
W = WALKER MONUMENT

FIELD WORK COMPLETED ON 1-16-2020

PROPERTY ADDRESS

2760 E Colony Ave
Columbia City, IN 46725

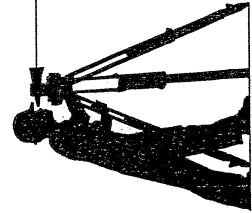
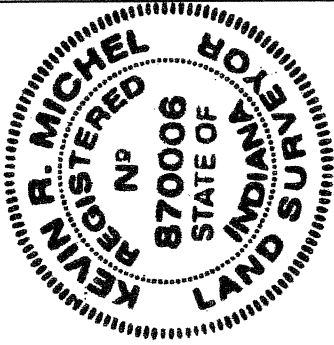
GPS NOTE

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.

Kevin R. Michel



WALKER & ASSOCIATES
EST. 1984
112 WEST VAN BUREN STREET
COLUMBIA CITY, IN 46725
Phone: (260) 244-3640
Fax: (260) 244-4640
**LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING**

PART OF OUTLOT NUMBER 1 IN BEECH PARK ADDITION
TO TRI-LAKE RESORT, WHITLEY COUNTY, INDIANA

FOR:
GREEN, MYRON

SCALE: 1"=20'

DRAWN BY: KRM

DATE: 1-17-2020

PAGE: 3 OF 3

DRAWING NUMBER

RB-140 "U"

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

Land Surveying, Civil Engineering & Land Planning

William D. Kyler, P.S.

Kevin R. Michel, P.E. & P.S.

112 West Van Buren Street, Columbia City, IN 46725

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HISTORICAL DESCRIPTION OF SURVEYED TRACT

(Per Parcel I in Document Number 2011020218)

A part of Outlot Number 1 of Beech Park Addition to Tri-Lake Resort, Whitley County, Indiana, described as follows:

Commencing at a point on the North line of said Outlot, a distance of 20 feet East from the Northwest corner thereof; running thence East, along the North line of said Outlot, a distance of 60 feet; thence South, parallel with the West line of said Outlot, a distance of 134.6 feet; thence West, parallel with the North line of said Outlot, a distance of 60 feet; thence North, parallel with the West line of said Outlot, a distance of 134.6 feet to the place of beginning.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. The surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0155C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

THEORY OF LOCATION

This is a retracement boundary survey of part of Outlot Number 1 of Beech Park Addition to Tri-Lake Resort, Whitley County, Indiana, located at 2760 E Colony Avenue, Columbia City, Indiana, recorded as Parcel I in Document Number 2011020218 in the records of Whitley County, Indiana.

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey. An iron pin was found at all Four (4) corners of the surveyed tract. Said iron pins were held this survey. See survey for other monuments found near the surveyed tract. See survey for monuments found that are referenced. The actual calculated lengths of the lines of the surveyed tract agree with the recorded distances.

SURVEYOR'S REPORT

In accordance with the Title 865 IAC 1-12 "Rule 12" of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties of the location of the lines and corners established on this survey as a result of:

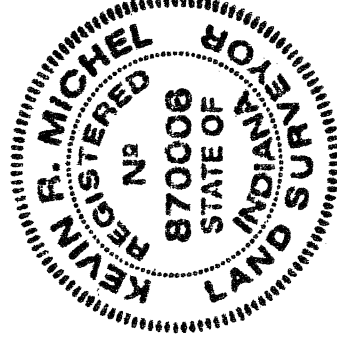
(A) Availability and condition of referenced monuments.
See comments above concerning monuments set or found and held this survey. The monuments found are in good condition unless otherwise noted. Certain monuments are referenced as shown.

(B) Occupation or possession lines.
None

(C) Clarity or ambiguity of the record description used and of adjoining's descriptions and the relationship of the lines of the subject tract with adjoining's lines.
None

(D) The relative positional accuracy of the measurements.
The Relative Positional Accuracy (due to random errors in measurements) of the corners of the subject tract established by this survey is within the specifications for Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million as defined by IAC 865.

Date: January 17, 2020
Name: Green, Myron
Address: 2760 E Colony Avenue
Columbia City IN
Survey #: RB-140 "U"



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

Land Surveying, Civil Engineering & Land Planning

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NOTES

1. This survey is subject to any facts and /or easement that may be disclosed by a full and accurate title search. The undersigned should be notified of any additions or revision that are required. The undersigned was not provided with a current title commitment for use on this survey.
2. For monuments found and set, see survey. All pins set are #5 Rebars with caps marked "Walker".
3. Origin of monuments unknown unless noted on survey.
4. Measurements of this survey are based on aforesaid G.P.S. and/or E.T.S. traverse measurements.
5. Ownership research of the subject tract, and adjoining tracts, was obtained from current tax records on file in the Offices of the county Auditor and Recorder.
6. The Whitley County Surveyor's Legal Drain Map shows a legal tile drain running through the surveyed tract. Per Indiana Code 36-9-27 legal tile drains have 75-foot wide drainage easements from the centerline of each tile. The approximate location of the legal tile drain is shown on this survey. Prior to any construction of a permanent structure near the legal drain easement, the location of the centerline of the tile should be verified by the Whitley County Surveyor. The existing improvement extends into the drainage easement as shown on this survey.
7. The surveyed tract may be subject to an easement for sanitary sewer purposes. The undersigned was not provided with any such easements.
8. The surveyed tract is subject to a cable easement as recorded in Document Number 2012010238 in the records of Whitley County, Indiana. Said cable easement is located in the North part of the surveyed tract and is shown on the drawing.
9. Reference survey(s) by J.K. Walker & Associates, P.C., dated 06-17-88, 12-09-91, 06-15-00, 11-28-00, 04-01-03, 12-13-11.
10. I, Kevin Michel, affirm under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Date: January 17, 2020
Name: Green, Myron
Address: 2760 E Colony Avenue
Columbia City IN
Survey #: RB-140 "U"

