

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

20-W-VAR-12 DEVELOPMENT STANDARDS VARIANCE

Bradley & Jean Schantz/Jeff Ormsby

2731 W. Buckles Road

DECEMBER 22, 2020

AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 0.56± acre

The petitioners, owner of the subject property and their contractor, is requesting a development standards variance for an encroachment into the required rear (street side) setback on the property located at 2731 West Buckles Road in Section 25 of Etna-Troy Township. The property is comprised of Lots 5, 6, 7, and 8 of George Rickett's First Addition to Loon Lake Resort.

The petitioner has proposed a 16'x 40' two-story addition on the northeast side of the existing dwelling. The addition would add three bedrooms and a bathroom, and extend two existing bedrooms. Per the submitted plot plan, the addition would be located 8' from the right-of-way line of Buckles Road.

Since this lot has lake frontage, rear setback standards apply to the street side. The required minimum rear setback is 15', necessitating a request for a 7' rear variance.

Note that the northernmost 30'± of the property is in the floodway of the Schaefer legal drain, while roughly 40' along the lakeside is in the floodplain. By map, the proposed addition should be outside of these areas.

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. The proposed rear setback is greater than the garage setbacks of the two properties immediately to the south that were granted variances for 1' setbacks in 2004. Given this is a living space addition, it should not injure the public safety on the road or cause further safety issues. Also, reasonable encroachments within the road setback so as to avoid encroachment into the floodplain are usually favorable for protecting public health and safety.

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. For example, the two properties to the south enjoy larger setback encroachments as the proposed.

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 proposed addition constitutes a 50% increase in the area of the existing 3-bedroom dwelling, which may be an indication of a self-imposed desire to overbuild the property rather than a difficulty

impeding a reasonable use. However, the floodplain areas do constrain the buildable area outside required setbacks that is otherwise available, which may present a practical difficulty.

Date report prepared: 12/15/20

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>					

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