

WHITLEY COUNTY BOARD OF ZONING APPEALS

STAFF REPORT

21-W-VAR-1      **DEVELOPMENT STANDARDS VARIANCE**  
Jerry Paris  
1770 E. Poplar Road

FEBRUARY 23, 2021  
AGENDA ITEM: 1

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**SUMMARY OF PROPOSAL**

Current zoning: LR, Lake Residential

Property area: 7,400± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front setback on their property located at 1770 East Poplar Road in Thorncreek Township. The property is Lot 19 of Chubs Subdivision (platted 1953).

The petitioner has proposed to replace the existing 10' deep wood deck on the lake side of the dwelling and replace it with a three seasons room addition. The dwelling is approximately 37.3' from the lakeside property line, and the room addition would be roughly 12' deep, making the setback 24' at its nearest point to the property line.

Since this lot has lake frontage, front setback standards apply to the lake side, with rear setbacks on the opposite, typically road, side. The averaging rule permissible in §5.03(D) does not result in any change in the setback since this is one of the nearer homes on Poplar Road. The required minimum front setback is 35', resulting in an 11' variance being requested.

Based on the Best Available map information and topography, the structure would be located outside the regulatory floodplain.

**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 safety, health, and morals as improvements with encroachments such as the proposed exist throughout the zoning district without apparent injury. General welfare may be injured if practical difficulties specific to the property are not found.

**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 of the area adjacent to the property as similar properties in the LR district have similar structures with encroachments. However, the value of the property immediately adjacent to the subject property may be adversely affected by the proposed encroachment if the addition blocks or restricts view lines of the lake. The Board should consider whether it is substantially adverse.

**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 might result in practical difficulties. The existence of the existing wood deck may seem to provide a precedent for a structure at the requested setback, although

the removal of the deck would remove any grandfathering it may enjoy (if any). Otherwise, the property does not appear to have any difficulties obvious to Staff.

Date report prepared: 2/15/21

# **BOARD OF ZONING APPEALS ACTION**

## Findings of Fact Criteria

	<b>Vote: Denihan</b>		<b>Lopez</b>		<b>Wilkinson</b>		<b>Wolf</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: ☐ Grant

☐ Grant w/conditions

☐ Deny

By: \_\_\_\_\_

Second by: \_\_\_\_\_

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

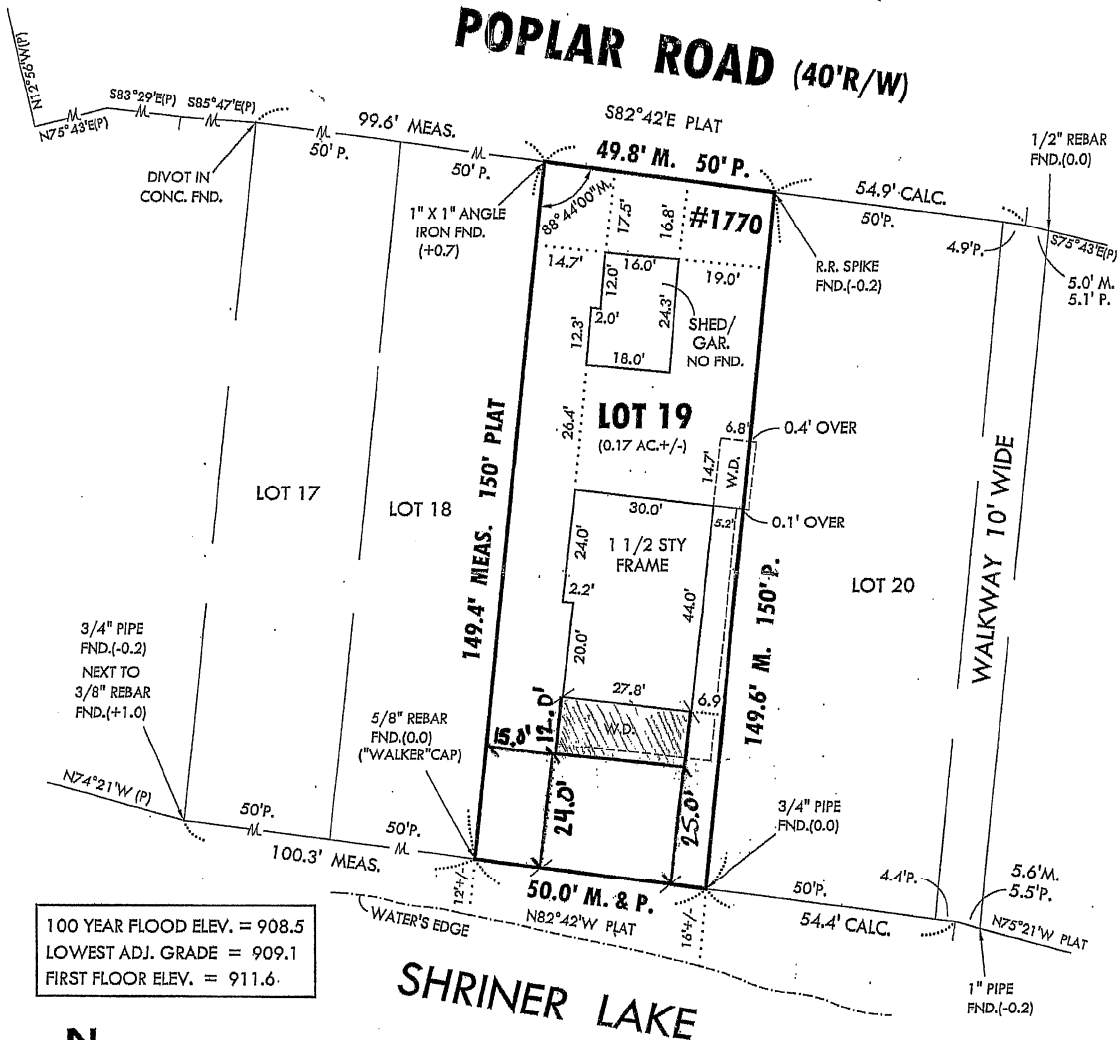
**PLAT OF SURVEY** (Page 1 of 2)

(SEPT. 08 / 0809-134)

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.**


JERRY FARIS



100 YEAR FLOOD ELEV. = 908.5  
LOWEST ADJ. GRADE = 909.1  
FIRST FLOOR ELEV. = 911.6.



0' 30' 60' 90'



SCALE IN FEET: 1" = 30'

Proposed setback = 24.0'  
Required setback = 35.0'

I hereby certify that the above Plat of Survey was prepared under my direct supervision and that to the best of my knowledge and belief was executed in accordance with the requirements of the Indiana Survey Standards as defined in Title 865, Article 1, Rule 12 of the Indiana Administrative Code.

Fieldwork completed on the 24th day of SEPTEMBER, 2008.

Certified this 25th day of SEPTEMBER, 2008.

Prepared for: HOPPAS / PARIS - ANDERS

Survey Number: 08 - 09 - 134

DAVID M. ANDERSON, P.E., L.S.



