

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

21-W-VAR-14 DEVELOPMENT STANDARDS VARIANCE
Bradley Pearl & Sarah Straub Pearl
9160 E. 300 North

**AUGUST 24, 2021
AGENDA ITEM: 1**

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Property area: 1.29± acres

The petitioner, owners of the subject property, is requesting a development standards variance for an encroachment into the required front setback on the property located at 9160 East 300 North in Smith Township.

The petitioner has proposed a roughly 50'x60' accessory building to the west of the dwelling (constructed in 1960). The intended use for the building is as a garage, storage, and a workshop. Per the submitted plot plan, the building would be 45.0' from the centerline of the road, or 25.0' from the surveyed right-of-way line.

The required front setback is 40' from the right-of-way line, necessitating a request for a 15' 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 variance will not likely be injurious to the public health or morals, as outbuildings with encroachments such as the proposed exist throughout the zoning district without injurious effect. A 25' setback is still fairly sufficient for an outbuilding to maintain a safe distance from the road. However, as with any variance, the general welfare may be injured by degradation of the effectiveness of the zoning code if there are not site-specific difficulties for the variance.

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 properties throughout the AG district have similar accessory structures. Use should also not be affected, due to the distance of the proposed addition from adjacent properties and maintaining what should be an adequate, though perhaps not ideal, front setback.

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 potential to locate an accessory structure to the west of the dwelling is constrained by the location of the septic field and by a legal drain easement. Locating the structure to the east side of the dwelling is constrained by the location of the LP tank and an electric service pole, while a driveway to the east could disturb the well on the north side of the house. Further, placement of the proposed structure to the east of the house would likely encroach into the required side setback by 2-5'.

However, decreasing the area of the building should also be considered to reduce or eliminate the variance, and the Board should discuss the feasibility of doing so.

Date report prepared: 8/18/21

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>					

21-W-VAR-14

Petitioner requests a development standards variance for an encroachment into the required front yard setback for an accessory structure at 9160 E. 300 North, Churubusco. The required front yard setback along a local road in the AG District is 40' (measured from the right-of-way line). The proposed accessory structure would be 25' from the right-of-way line along E. 300 North, resulting in a variance request of 15'.



PLOT PLAN

PREPARED FOR

BRADLEY J. PEARL & SARAH K. STRAUB PEARL

SITUATED IN THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 32 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA.

THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT. SUBJECT TO PLAN COMMISSION APPROVAL.

DESCRIPTION

(Per Document Number 2020040174)

Commencing at the Northeast corner of the West one-half of the Northeast Quarter of Section Twenty-five (25), Township Thirty-two (32) North, Range Ten (10) East, in Whitley County, Indiana; thence North 88 degrees 45 minutes West along the North line of the said West one-half, 372.5 feet to the point of beginning; thence North 88 degrees 45 minutes West, along the North line of the said West one-half, 336 feet; thence South 01 degrees 01 minutes East (recorded South 00 degrees 13 minutes East, by survey) 170 feet; thence South 89 degrees 46 minutes East, 336 feet; thence North 01 degrees 01 minutes West (recorded North 00 degrees 13 minutes West, by survey), 164 feet to the point of beginning, containing 1.29 acres, more or less.

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 18183C0180C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

ZONING REQUIREMENTS

Zoned: AG Agricultural District

Minimum Front Yard Setback: 40 feet

Minimum Side Yard Setback: 25 feet for Primary Structure

10 feet for Accessory Structures

Minimum Rear Yard Setback: 30 feet for Primary Structure

10 feet for Accessory Structures

(Source: Whitley County GIS and Whitley County Zoning Ordinance)

PROPERTY ADDRESS

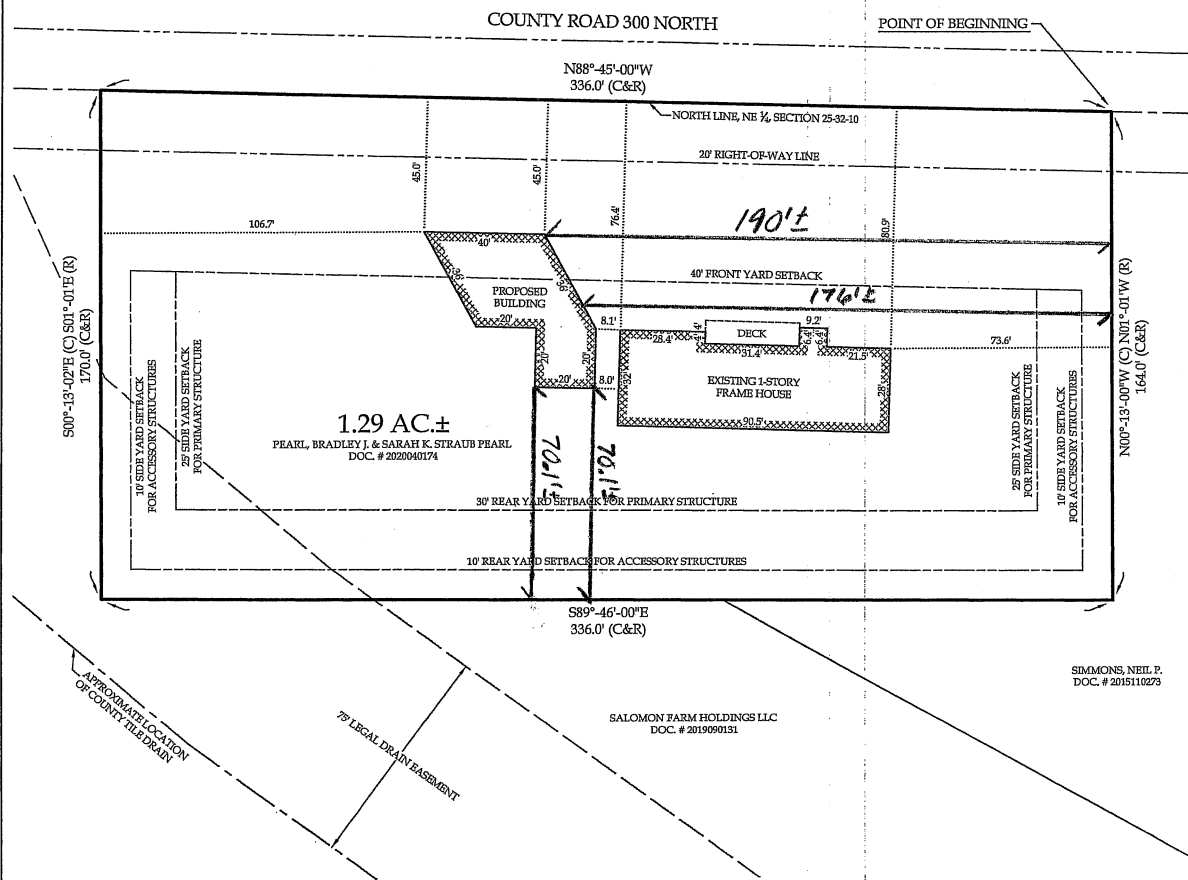
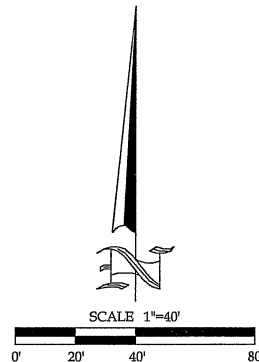
9160 E 300 N

Churubusco, IN 46723

LEGEND

C = CALCULATED

R = RECORDED



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LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING

PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 32
NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA

FOR: PEARL, BRADLEY J.
STRAUB PEARL, SARAH K.

SCALE: 1"=40'

DRAWN BY: RDP

DRAWING NUMBER

DATE: 8-9-2021

PAGE: 1 OF 1

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Whitley County Planning/Building Permit Information Form

Completing this form will assist the Whitley County Planning and Building Department in preparing an application for your project's permit. Some questions listed may not apply to your specific project, and you may leave them blank. If you have any questions or would like to know what other documents may be required for your project, please contact the Whitley County Planning & Building Department by phone, 260-248-3112, FAX, 260-248-3187, or email wcplanning3@whitleygov.com.

Name of owner(s): Bradley Pearl & Sarah Shaulbreen Email: bsmmpearl@yahoo.com

Telephone: (260) 402-6075

Project address: 9160 E 300 N, Chumkusee, IN 46723

Please briefly describe your project: This will be a barn for extra parking and storing things. It will also have a "shop" area to work in.

For new buildings/additions, what is your structure size? 40 x 56 (or square footage _____)

How tall are the walls? 14'

What is the pitch of the roof? _____ (Or, what is the height from the ground to the peak? _____)

How many of these items will your new area contain? _____ Fireplace(s) _____ Garage, Attached
_____ Deck(s) X Garage, Detached
_____ Patio(s) Garage size: 40 x 56

How many floors/stories? 1
_____ Porch(es)
_____ Bedroom(s)
_____ Full Bathroom(s)* _____ Half Bathroom(s)*

*include areas plumbed for future bathrooms

Heating: ☐ Propane ☐ Natural Gas ☐ Electric ☐ Geo Thermal ☒ Other maybe later but not at this time

Foundation:

☐ Full Basement ☐ Partial Basement Square Feet _____
☐ Finished basement Square Footage of Finished Portion of Basement _____
☐ Crawl Space ☒ Slab ☐ Post Holes

Siding: ☐ Wood ☒ Aluminum ☐ Vinyl ☐ Vinyl/Brick ☐ Vinyl/Stone ☐ Other: _____

Contractor Name/Address/Phone (and FAX if available): _____

