

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

19-W-VAR-18 DEVELOPMENT STANDARDS VARIANCE
Robert and Victoria Davis
6738 E. McGuire Road

OCTOBER 22, 2019
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential

Property area: 9,023± sq. ft.

The petitioner is requesting a development standards variance for an encroachment into the required front (lake side) on their property located at 6738 East McGuire Road. The property is comprised of Lots 2 and 3 of McGuire's First Addition to Blue Lake Resort.

The petitioner has proposed a 12'x12' deck to be located on the south side of the existing structure. The existing structure could be described as a lake shanty, which is the petitioner is currently renovating and has future plans to expand or replace with a full dwelling. Per the submitted plot plan, the deck would be 26.4' from the property line.

Since this lot has lake frontage, front setback standards apply to the lake side. The required minimum front setback is 35', resulting in a request for an 8.6' variance.

Also note that the proposed deck may encroach into the floodplain. If so, the petitioner has indicated intention to abide by the requirements of the flood code.

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 improvements with encroachments such as the proposed exist throughout the zoning district without apparent injury. Even with the encroachment, the proposed deck and existing improvements permit relatively open movement through and around the property for emergency access and permits adequate light and air on the subject and adjacent properties.

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 majority of properties to the west already enjoy the same or smaller setbacks 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 existing shanty was constructed prior to the adoption of current zoning ordinances and most likely did not contemplate any additions or expansions, such as the proposed. Further, the proposed deck has a similar setback from the lakeshore as the majority of properties in the vicinity, in both directions and both as primary structures and accessory improvements; however, the platted property line is the line

from which the setback required by the zoning code is measured. So, while the improvements are visually approximately the same, the terms of the code result in a more restrictive setback since the property does not extend to the lakeshore.

Date report prepared: 10/15/19

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

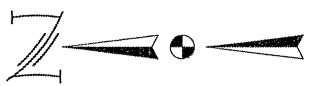
	Vote: Deckard		Denihan		Lopez		Wilkinson		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion:

By:

Second by:

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



LEGEND
M = MEASURED
P = PLAT
R = RECORDED
* = WALKER MONUMENT

C = CALCULATED
R = RECORDED
* = WALKER MONUMENT

FIELD WORK COMPLETED ON 10-8-2019

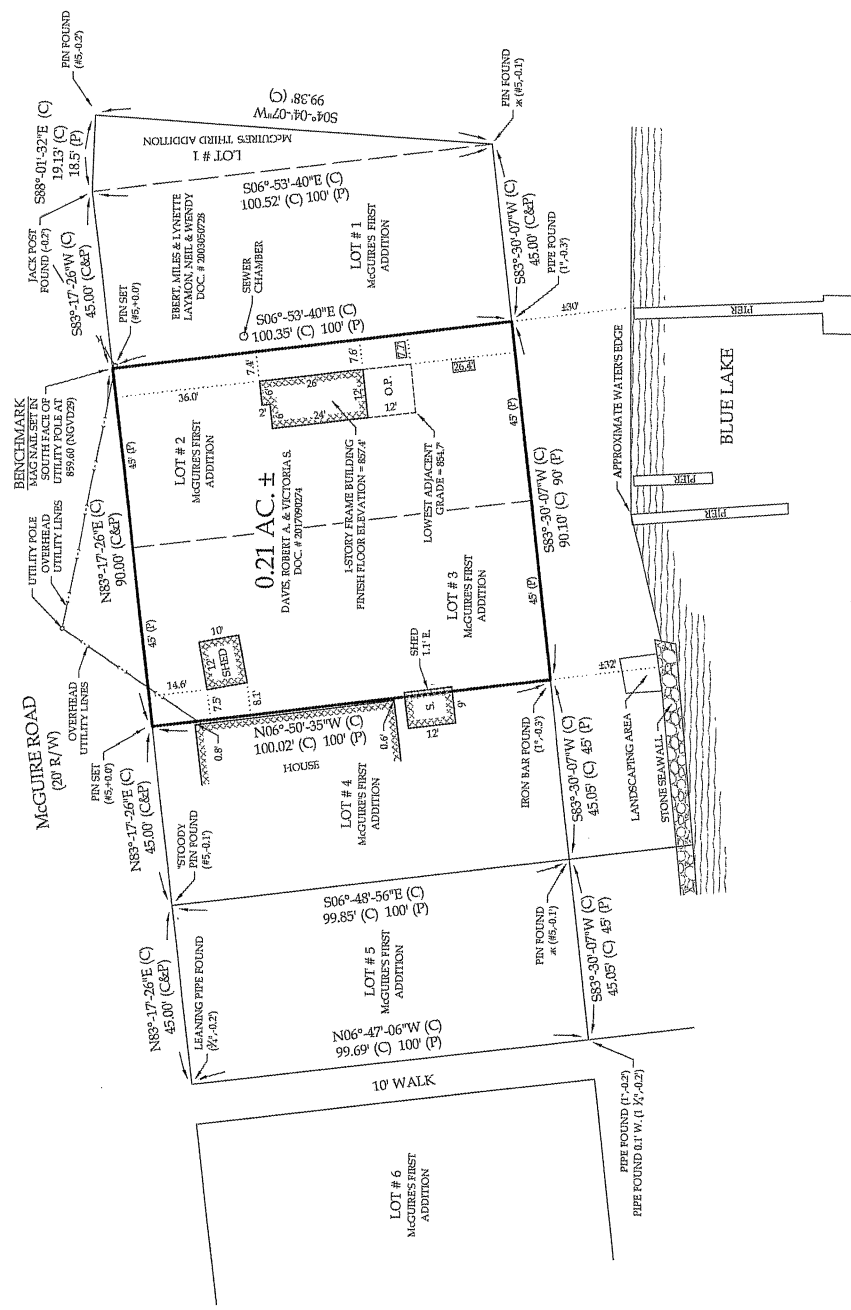
PROPERTY ADDRESS
6738 E McGuire Rd
Churubusco, IN 46723

BASIS OF BEARINGS

The basis of bearings for this drawing is CFS Bearings. Multiple CFS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

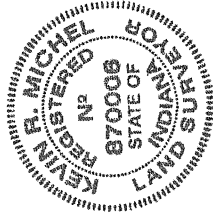
ELEVATION INFORMATION

Elevations shown on this drawing are based on NGVD29 datum.
The Base Flood Elevation for Blue Lake is 854.6 according to the Indiana Department of Natural Resources.
A benchmark was set in a utility pole near the Northeast corner of Lot Number 2 in McGuire's Third Addition at 859.60 (NGVD29).



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.

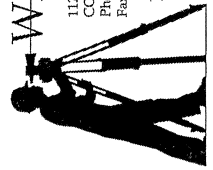


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& LAND PLANNING



LOTS NUMBERED 2 AND 3 IN MCGUIRE'S FIRST ADDITION TO BLUE LAKE, WHITLEY COUNTY, INDIANA

FOR: DAVIS, ROBERT A. & VICTORIA S.

SCALE: 1"=30'	DRAWN BY: CAG	DRAWING NUMBER
DATE: 10-9-2019	PAGE: 3 OF 3	LT-115

