

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

19-W-VAR-6 DEVELOPMENT STANDARDS VARIANCE
Stephanie Stewart & Amy Biggs
1880 E. Linker Road

MAY 28, 2019
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: LR, Lake Residential
Property area: 8,150± sq. ft.

The petitioner is requesting a development standards variance to allow the rebuilding of a deck on their property at 1880 East Linker Road. The property is comprised of Lots 7 and 8 of Barber’s Third Addition to Tri-Lakes Resort, located about ½ mile east of SR 9.

The property is currently improved with a single-family dwelling and detached garage. The petitioners had have previously been granted a variance in 2012 for a room addition located within the side setback and for reconstruction of the existing deck within the front setback using the existing footprint. The addition was completed in 2012, but the deck has not been rebuilt.

The petitioners are now seeking to rebuild the deck wider and deeper than the existing deck considered in 2012. The existing deck is approximately 24’x10’, resulting in the approved 19’ lakeside setback. The proposal is for a 28’x14’ deck, resulting in a 15’ lakeside setback.

The zoning code requires a 35’ front (lakeside) setback for lakeside properties in LR.

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, safety, and morals, as porches, decks, additions, and other structural extensions are common encroachments throughout the LR zoning district with no or few injurious effects. However, the continuation of noncompliant setbacks can degrade the purpose of the zoning code standards, which degrades the general welfare.
- 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**
Generally, it is not expected that variances such as this will adversely affect the use and value of the area adjacent to the property as similar properties in the LR district have similar encroachments of similar structures which have not resulted in any apparent adverse effect on the use and value of the adjacent area. Impact on viewsheds from adjacent properties occasionally results in effects to use and value; the proposed location of the deck, centrally located on a relatively large property, does not appear to have a substantial effect on viewsheds.
- 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 given the

prevalence of other encroachments in the area and the effect of the previous variance approval. However, the Board should weigh whether the variance arises from a particular condition of the property or from a self-imposition.

Date report prepared: May 22, 2019

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

Vote: Deckard Denihan Lopez Wilkinson Wright

Yes

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No

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Abstain

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