

# City of South Bend

## BOARD OF ZONING APPEALS

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### AGENDA

**Monday, December 5, 2022 - 4:00 p.m.**

County-City Building

Fourth-Floor Council Chambers

[www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

#### PUBLIC HEARING:

- Location:** 615 MICHIGAN ST BZA#0141-22  
**Owner:** MEMORIAL HOSPITAL  
**Requested Action:** Variance(s): 1) From the 150' maximum building height to 170'-7"  
**Zoning:** DT Downtown
- Location:** 636 IRELAND RD BZA#0142-22  
**Owner:** JAY D PRIMMER AND MICHAEL L WILLIAMS  
**Requested Action:** Variance(s): 1) From the 25' minimum rear yard setback along Hawbaker to 1.6' for the carport and 23.6' for the detached garage with ADU; 2) From a maximum of 1 detached accessory structure to 2; and 3) From the maximum 4 car capacity for all garages and carports to 7  
**Zoning:** S1 Suburban Neighborhood 1
- Location:** 1437 EWING AVE BZA#0143-22  
**Owner:** JESSICA T STONE  
**Requested Action:** Variance(s): 1) From the maximum 3' fence height in the established corner yard to 6'  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 2048 Ireland Road BZA#0144-22  
**Owner:** ERNEST J NAGY REVOCABLE TRUST  
**Requested Action:** Variance(s): 1) to allow a drive-through facility in the established corner yard; and 2) from the required 10' bailout lane for a drive-through to none  
**Zoning:** C Commercial
- Location:** 806 SAMPLE ST BZA#0146-22  
**Owner:** 806 SAMPLE SOUTH BEND LLC  
**Requested Action:** Variance(s): 1) From the 10' minimum rear setback to 0' for pavement and 1' for the dumpster enclosure. ; and 2) From the 15' minimum front setback to 10' for pavement  
**Zoning:** I Industrial
- Location:** 339, 341, 343, an 345 LINCOLNWAY WEST and 306 WILLIAM ST BZA#0147-22  
**Owner:** POUYA PROPERTIES LLC  
**Requested Action:** Variance(s): 1) to allow new street access along Lincolnway West where an alley is available; 2) To allow the continued use of the existing street front access along Williams Street; 3) From the 5' minimum side setback for parking to 1.5 along the east property

City of South Bend **BOARD OF ZONING APPEALS**

line; 4) From the required 5' minimum side setback for parking to 3' along the north property line; 5) From the 3 required bicycle parking spaces to none; 6) From the 15' minimum drive aisle width for one-way parking to 12'; and 7) From the 24' minimum drive aisle width for two-way parking to 22'

**Zoning:** NC Neighborhood Center

- 7. **Location:** 506 OLIVE ST BZA#0134-22  
**Owner:** ALBERT AND ELLA WILLIAMS  
**Requested Action:** Variance(s): 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to none; and 3) from 1 streetscape tree for every 30' of frontage to none  
**Special Exception:** Vehicle Service, Major  
**Zoning:** NC Neighborhood Center
  
- 8. **Location:** 1502 MIAMI RD BZA#0139-22  
**Owner:** SHARK INVESTMENTS LLC  
**Requested Action:** Special Exception: vehicle service, minor  
**Zoning:** NC Neighborhood Center
  
- 9. **Location:** 3409 ST JOSEPH ST BZA#0140-22  
**Owner:** PATEL DAPHINE  
**Requested Action:** Special Exception: group residence  
**Zoning:** U1 Urban Neighborhood 1
  
- 10. **Location:** 1405 PORTAGE AVE BZA#0145-22  
**Owner:** PEAK INVESTMENT & ASSET MANAGEMENT LLC  
**Requested Action:** Variance(s): 1) To allow for parking in the establish front yard; and 2) From the 60% minimum transparency to none  
**Special Exception:** Tobacco/Hookah/Vaping  
**Zoning:** NC Neighborhood Center

**ITEMS NOT REQUIRING A PUBLIC HEARING:**

- 1. Findings of Fact
- 2. Minutes
- 3. Other Business
  - a. 2023 Calendar
- 4. Adjournment

**NOTICE FOR HEARING AND SIGN IMPAIRED PERSONS**

Auxiliary Aid or other services may be available upon request at no charge. Please give reasonable advance request when possible.

**Property Information**

Location: 615 MICHIGAN ST  
Owner: MEMORIAL HOSPITAL

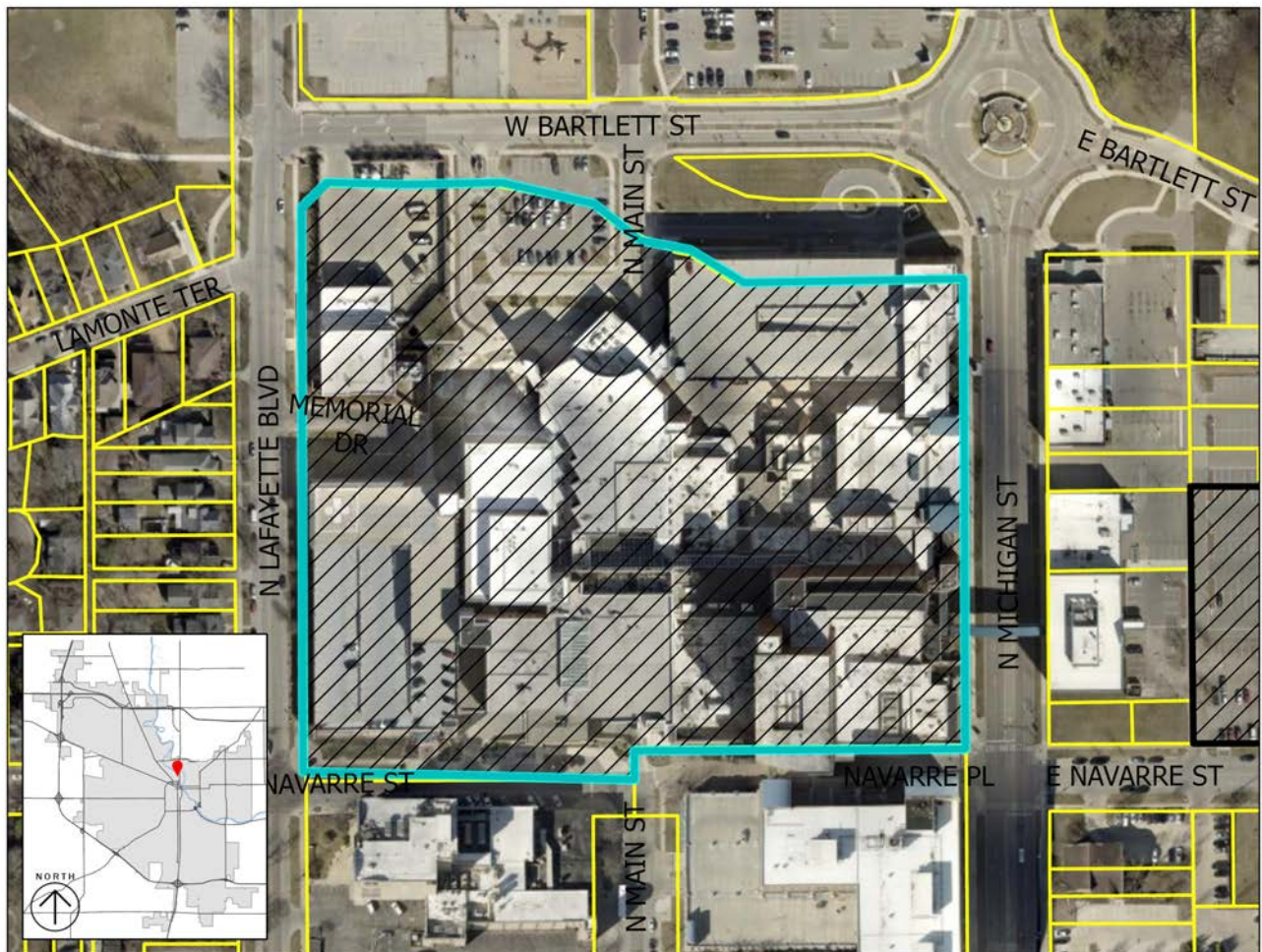
**Project Summary**

This project consists of a new patient tower addition to the existing memorial hospital building. It will contain connection to main lobby and shell space on the 1st floor, an ICU on the 2nd floor, new mechanical spaces on the 3rd and Penthouse floor, and new patient units on 4th-10th.

**Requested Action**

Variance(s): 1) From the 150' maximum building height to 170'-7"

**Site Location**

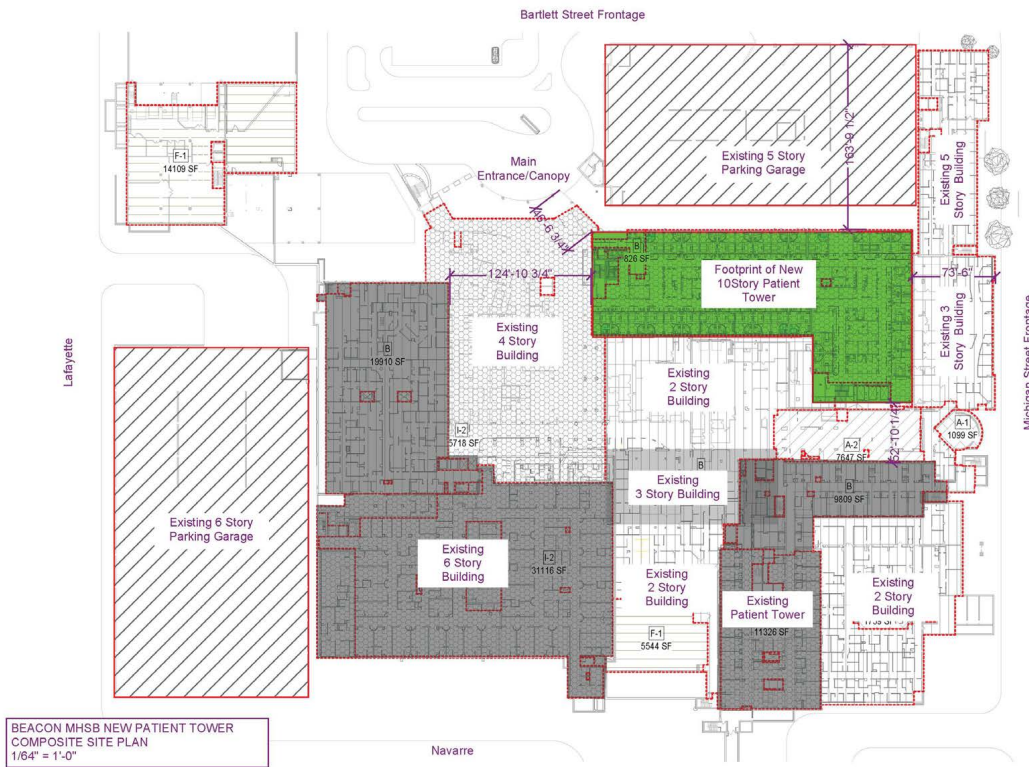


**Staff Recommendation**

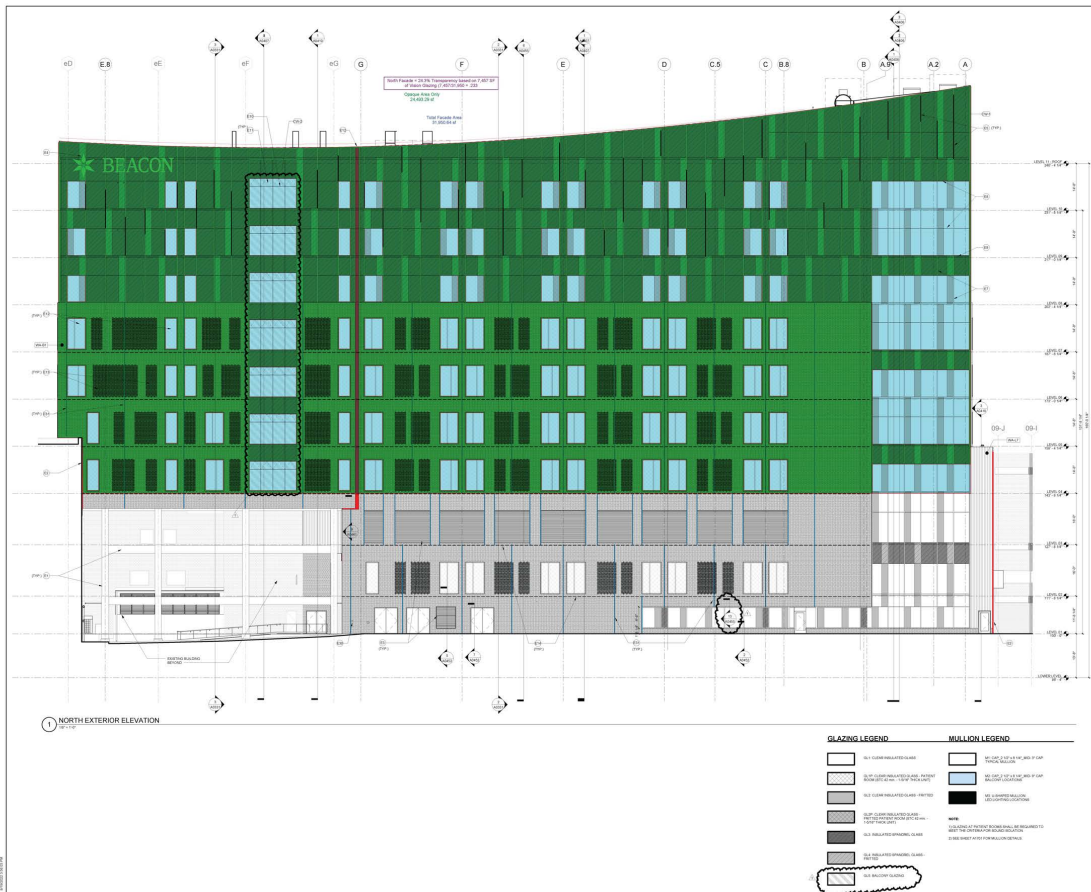
Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as presented.



Proposed Site Plan



BEACON MHSB NEW PATIENT TOWER  
COMPOSITE SITE PLAN  
1/8" = 1'-0"



**BEACON HEALTH SYSTEM**  
Beacon Health Memorial Hospital - New East Tower and Renovations  
615 N. Michigan St.  
South Bend, IN 46601

**CANNON DESIGN**  
ARCHITECTS  
1000 N. State St.  
South Bend, IN 46601  
P: 574.233.1000  
F: 574.233.1001  
www.beaconhealth.com

**ARCHITECT**  
CANNON DESIGN  
1000 N. State St.  
South Bend, IN 46601  
P: 574.233.1000  
F: 574.233.1001  
www.beaconhealth.com

**DATE:** 12/05/22  
**PROJECT:** BEACON HEALTH MEMORIAL HOSPITAL - NEW EAST TOWER AND RENOVATIONS  
**NO.:** A0311



## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

The new patient tower is designed to improve services to the City and surrounding areas. The variances will allow for improved public health, safety, and general welfare of the community.

**(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**

The proposed patient tower is located interior to the hospital campus and of similar size to the existing building, so it should not have a substantial impact on the use or value of adjacent properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the ordinance would limit the ability of the hospital to improve their services to the community. The hospital is bound by streets, making horizontal expansion difficult. The overall height and number of stories is permitted within the Downtown District, however, the parapet screening wall is limited to 4'. For a building of this size and nature, a 4' parapet would not allow for adequate screening from the other building on site.

**(4) The variance granted is the minimum necessary**

The proposed patient tower meets the intent of the district. The height and stories of the occupied building are within the limits. The additional height requested is to allow for additional screening of the mechanical penthouse and equipment. By locating the building interior to the overall campus, the difference in height will be negligible from the surrounding properties.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The physical limits of the hospital are not self-created. The location of the street network and the demand of the services provide very few options in how to expand the hospital without replicating services. By designing the building vertically, it lessens the impact on the surrounding area.

## Analysis & Recommendation

**Analysis:** Granting the variance for the additional height will allow the hospital to expand within the current footprint of the campus and properly screen rooftop equipment from adjacent buildings. The proposed development meets the intent of the Ordinance and is designed in a way to minimize impact on the surrounding neighborhood.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as presented.

**Property Information**

Location: 636 IRELAND RD  
 Owner: JAY D PRIMMER AND MICHAEL L WILLIAMS

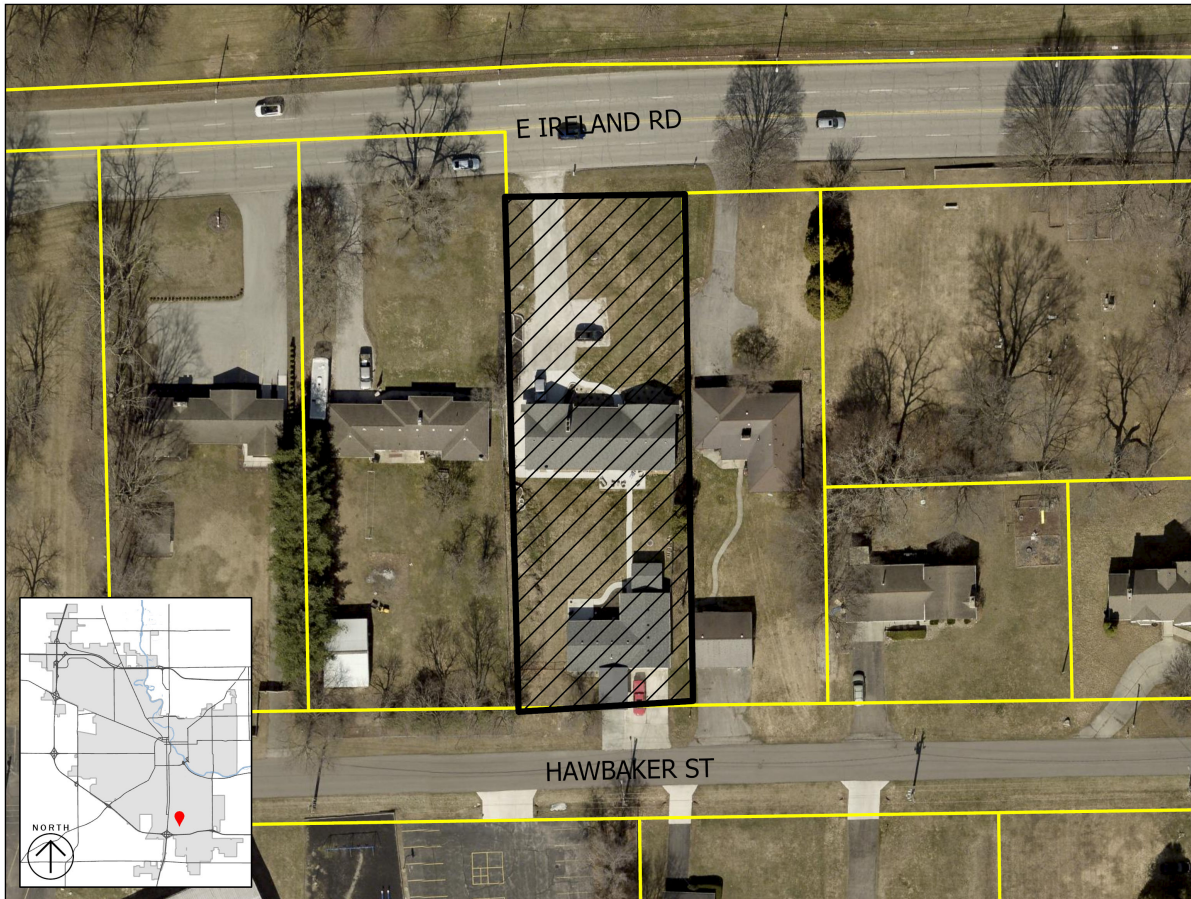
**Project Summary**

Allow an ADU attached to a garage and an additional accessory structure.

**Requested Action**

- Variance(s): 1) From the 25' minimum front setback along Hawbaker to 1.6' for the carport and 23.6' for the detached garage with ADU`
- 2) From a maximum of 1 detached accessory structure to 2
- 3) From the maximum 4 car capacity for all garages and carports to 7

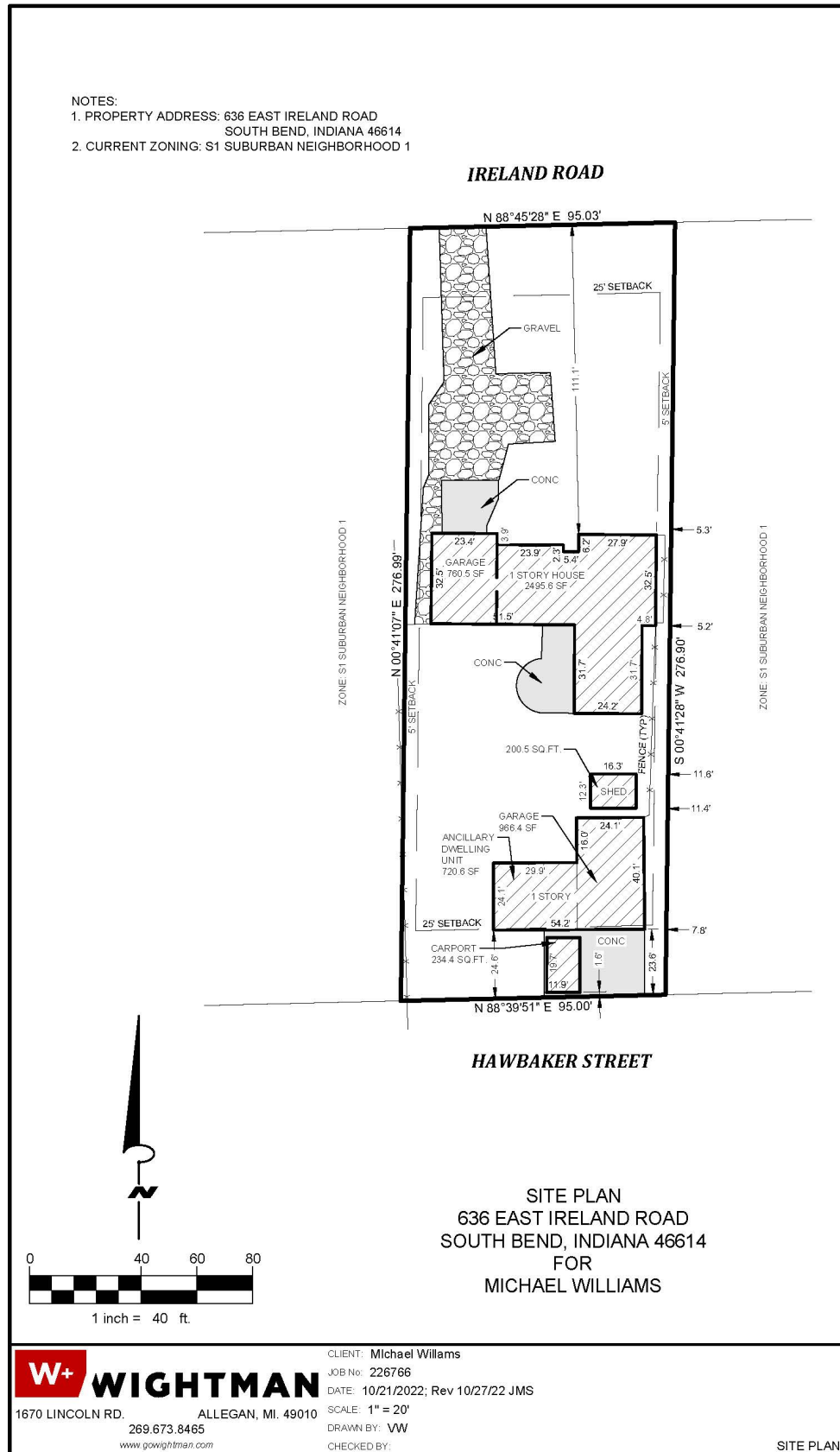
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board approve variance #1 for the ancillary dwelling unit only and deny the setback for the carport; deny variance #2 as presented; and approve Variance #3 subject to a maximum 6 car capacity in the current configuration shown on the site plan, not including the carport. All variances should be subject to obtaining proper permits, inspections, and completion of the ADU application.

Proposed Site Plan





## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

The surrounding neighborhood has developed with a pattern of detached garages being installed at this similar setback. The construction of the ADU should not be injurious to the public health, safety or general welfare of the community. The carport, however, could be injurious to the public health and safety because it could cause visibility issues.

**(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**

The use and value of the area adjacent to the property should not be affected in a substantially adverse manner as it relates to the ADU structure. The neighborhood developed with a pattern of detached garages being installed at or near the proposed setback. This is not out of character for the existing neighborhood. However, the carport at the current setback could affect the adjacent properties in an adverse manner because there is a traffic safety issue with a setback that close.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would result in a practical difficulty in the use of the property as it relates to the ancillary dwelling unit (ADU) and some of the related variances. The garage was constructed before 1998 and the shed has been on the property since at least 2002, which may make them legal non-conforming. Requiring the removal of those structures to build the ADU. The lot also has two frontages. One of the frontages has a larger than normal right of way on a dead end street. The lot could be subdivided in the future approval of the variance would allow that to happen. Strict application of the Ordinance would not result in a practical difficulty with the carport.

**(4) The variance granted is the minimum necessary**

The variance proposed is the minimum necessary for the ADU to align with the existing garage, which may have been legal non-conforming. There are no practical difficulties to justify the reduced setback, increase in the the number of detached accessory structures, and the increased car capacity for the carport, so it is not the minimum necessary. Allowing for the increased capacity to 6 would be the minimum necessary to allow the garages to remain in the current size and configuration, but it is important to clarify the variance to address that issue and now allow for the expansion in the future.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The owner installed the carport without a building permit in an area that is not allowed per the ordinance. Due to this, approving this variance would correct a hardship that was caused by the current owner of the property. While the fact that the ADU was built slightly in front of the required setback is a hardship created by the property owner, the variance is minimal and appropriate in this situation.

## Analysis & Recommendation

**Analysis:** Granting the variance to allow the addition of an ancillary dwelling unit attached to the garage fronting Hawbaker is consistent with the Ordinance. The lot could potentially be subdivided in the future to form two home lots. The carport, however, is out of character for the area and does not meet the criteria for granting a variance.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board approve variance #1 for the ancillary dwelling unit only and deny the setback for the carport; deny variance #2 as presented; and approve Variance #3 subject to a maximum 6 car capacity in the current configuration shown on the site plan, not including the carport. All variances should be subject to obtaining proper permits, inspections, and completion of the ADU application.

**Property Information**

Location: 1437 EWING AVE  
Owner: JESSICA T STONE, DOUGLAS MATTHYS and JO-ANNA DEMITER

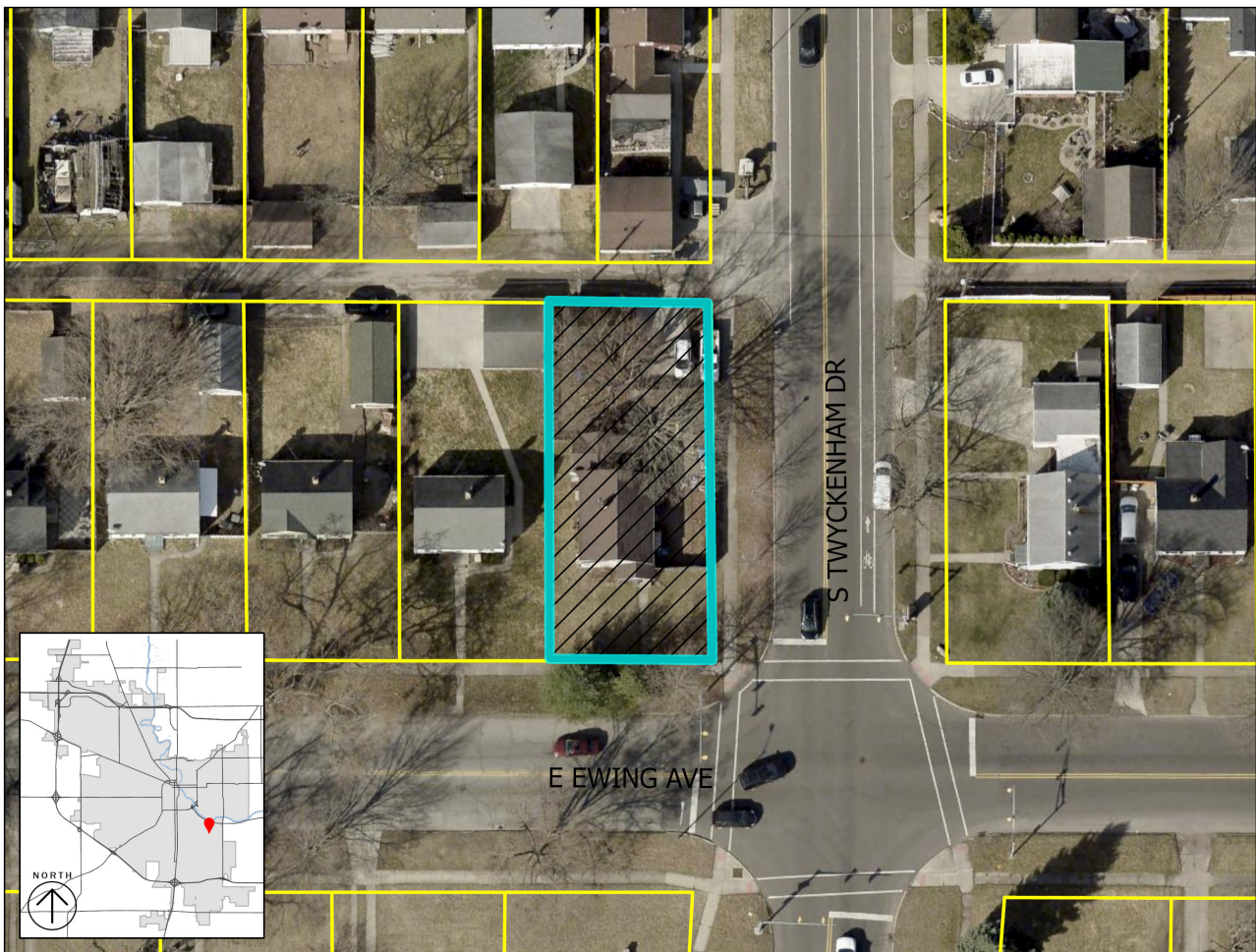
**Project Summary**

Replaced existing 6ft wooden privacy fence with 6ft vinyl privacy fence on corner lot.

**Requested Action**

Variance(s): 1) From the 3' maximum fence height in the established corner yard to 6'

**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as presented.



Proposed Site Plan



## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

Approval of the fence would be injurious to the public health, safety, and morals of the community. The establishment of a privacy fence in close proximity to the sidewalk negatively impacts the general welfare of the community by adversely impacting the pedestrian experience.

**(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**

Placing the 6' closed fence in close proximity to the sidewalk creates an unpleasant experience for pedestrians along Twyckenham Dr. Allowing a privacy fence in an established corner yard may also adversely impact the value of adjacent properties within the same block and adversely impact the character of the neighborhood as a whole.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the terms of this chapter would not result in a practical difficulty in the use of the property. The property can still be secured with a shorter, code compliant fence.

**(4) The variance granted is the minimum necessary**

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary. The petitioner could utilize a different fence option or install the fence in compliance with the ordinance and still retain about the same amount of usable yard space. The intent of the Ordinance is to reduce non-conforming items over time. Granting the variance will legalize the condition indefinitely.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The current owner installed the fence without a building permit at an height that is not allowed per the ordinance. Due to this, approving this variance would correct a hardship that was caused by the current owner of the property.

## Analysis & Recommendation

**Analysis:** There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is not consistent with the intent of the ordinance. The establishment of a privacy fence in close proximity to the sidewalk negatively impacts the general welfare of the community by adversely impacting the pedestrian experience. A code compliant fence could provide the security and privacy desired by the applicant. The intent of the Ordinance is to reduce non-conforming items over time. Granting the variance will legalize the condition indefinitely.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board deny the variance as presented.



**Property Information**

Location: 2048 Ireland Road  
Owner: ERNEST J NAGY REVOCABLE TRUST

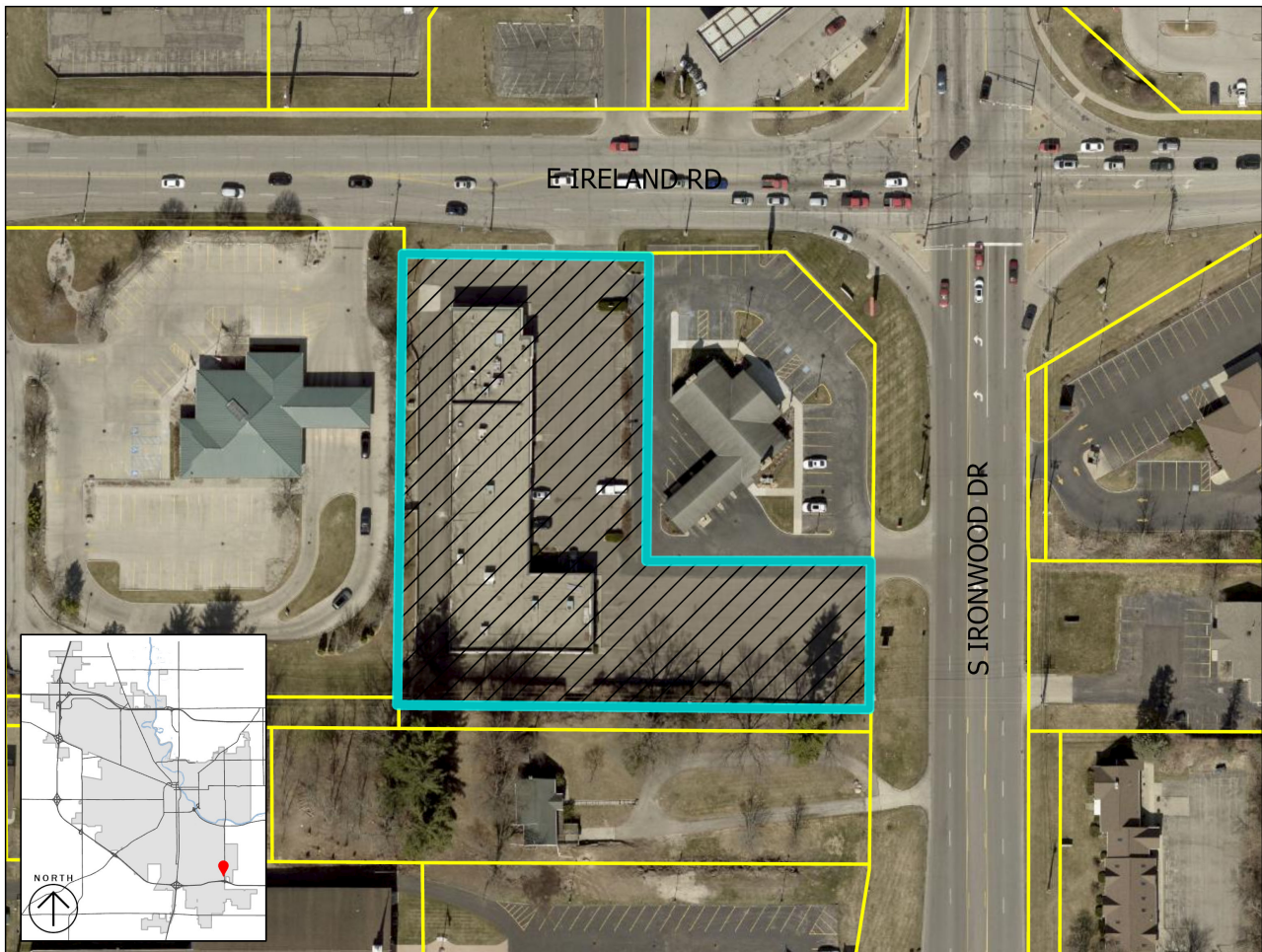
**Project Summary**

Add a drive-through facility in the existing building at the southeast corner of the structure. Drive-through drive and bailout lanes will be along south side of building. Pick-up window will be on east side.

**Requested Action**

Variance(s): 1) to allow a drive-through facility in the established corner yard  
2) from the required 10' bailout lane for a drive-through to none

**Site Location**



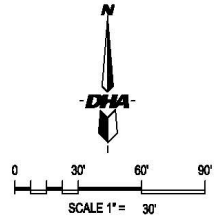
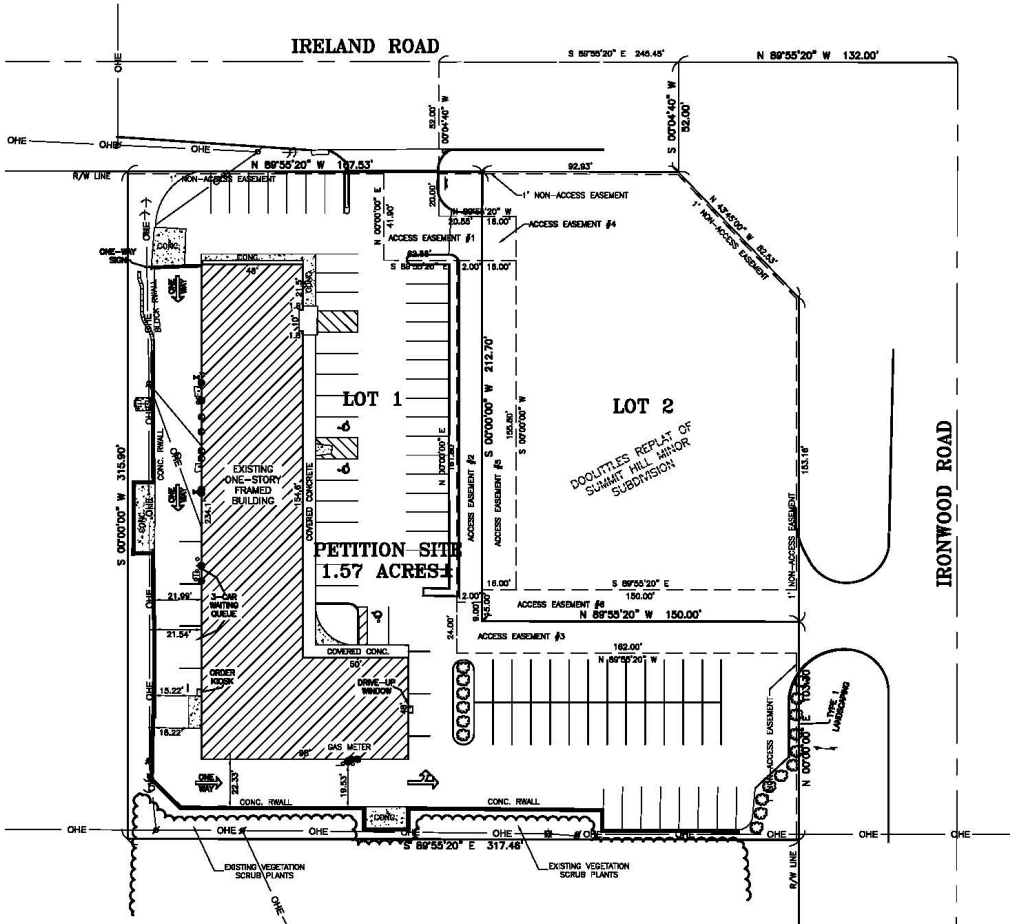
**Staff Recommendation**

Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented.

Proposed Site Plan

**BZA SITE PLAN**

PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 3 EAST,  
CITY OF SOUTH BEND, CENTRE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



R.L. HARNER #910032

**Danach, Harner & Associates, Inc.**  
Surveyors  
Landscape Architects - Land Engineers  
OFFICE: 1843 COMMERCIAL DRIVE - SOUTH BEND, IN 46828  
PHONE: (773) 234-4000 / FAX: (773) 234-4005



**SURVEYORS & ENGINEERS:**  
DANACH, HARNER & ASSOCIATES, INC.  
1843 COMMERCIAL DRIVE  
SOUTH BEND, IN 46828  
(773) 234-4000  
ATTN: MICHAEL DANACH

DATE	DRAWN BY:	REVISIONS			
11/02/22	JSG				
SCALE	CHECKED BY:	DATE	BY		
1" = 30'	MJD				
FILE #	PROJ. MANAGR:				
220233	SMM				

SHEET  
**1** OF  
**1**

## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

The proposed variance to allow a drive through in the established front yard should not be injurious to the public health, safety, or general welfare of the community. The building is setback significantly from the road and will have the appropriate landscape buffering to mitigate any potential impact. However, the variance requested for the bailout lane in the proposed location could be injurious to the health and safety of the community, because it would create a situation where as many as 20 cars could be located between the building and the retaining wall with no ability to be served by emergency services.

**(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**

The property is located in a commercial area with other drive-through establishments. The variances requested are generally consistent with the other properties in the area and should not adversely impact the use or value of those properties. If the drive-through lane remains in the proposed location, it could impact the use of the adjacent property as their lot may need to be used in the case of an emergency.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the Ordinance would not create practical difficulties with the use of the property, but would limit the reuse of the site in a sustainable manner. The variances requested will allow for a new use to be established within the existing building instead of being demolished.

**(4) The variance granted is the minimum necessary**

Locating the drive-through lane behind the building creates a situation where the variance requested is not the minimum necessary. If the drive-through utilized the existing parking area, the staff may be willing to support a variance from the bailout lane. It would increase the variance needed for the location of the drive-through in the established corner yard, but an alternate layout may still be justifiable for potential variances, depending on the layout and buffering.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The proposed variance is needed to allow for a use not anticipated when the property was originally developed. In that respect, the variances needed are self created. The layout of the site and the grade change between this and the adjacent property, however, is not.

## Analysis & Recommendation

**Analysis:** The proposed location of the drive-through could create a public health and safety to the community. The Fire Department has expressed concerns about vehicles being located in a place that would be inaccessible due to the location between a building and retaining wall. The Staff may be willing to support variances for an alternate site layout, depending on final design and buffering.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented.



**Property Information**

Location: 806 SAMPLE ST  
Owner: 806 SAMPLE SOUTH BEND LLC

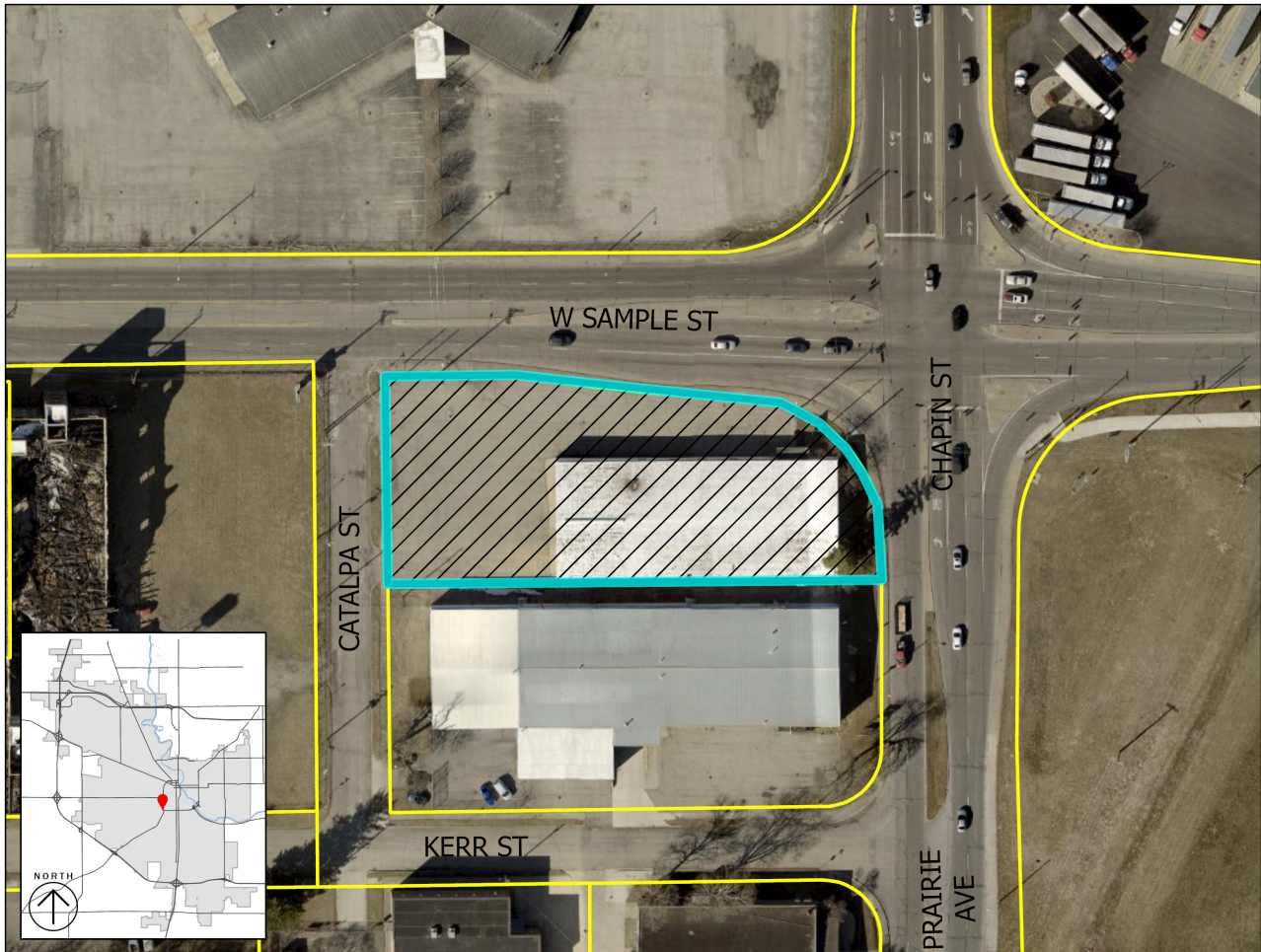
**Project Summary**

Partially demolish an existing building and renovate the rest into a gas station and convenience store with accompanying fuel canopy, retention basin, dumpster enclosure and parking area.

**Requested Action**

- Variance(s): 1) From the 10' minimum rear setback to 0' for pavement and 1' for the dumpster enclosure.
- 2) From the 15' minimum front setback to 10' for pavement

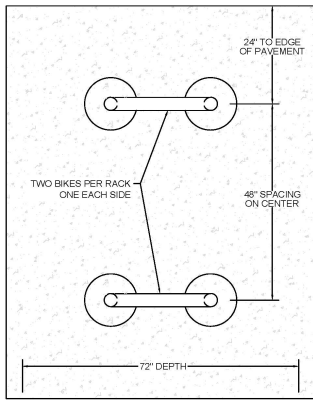
**Site Location**



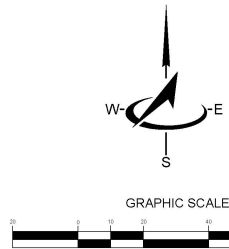
**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variances as presented.

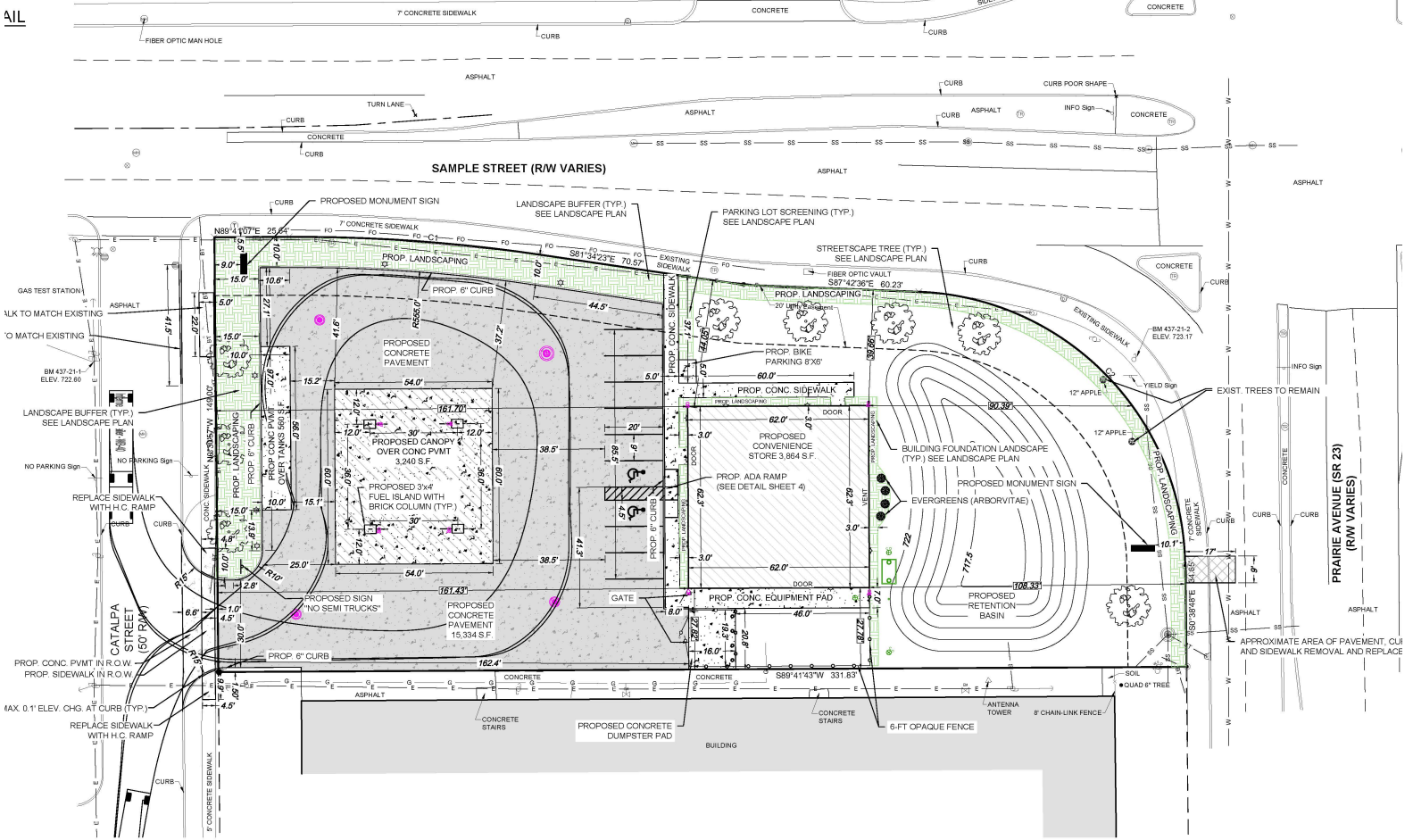
Proposed Site Plan



UTILITY SYMBOLS		MONUMENT SYMBOLS	
	UTILITY POLE		IRON PIPE FOUND
	GUY ANCHOR		CHISEL CUT FOUND OR SET
	ELECTRIC METER		REBAR FOUND
	MANHOLE		MAG NAIL FOUND
	SANITARY MANHOLE	<b>OTHER SYMBOLS</b>	
	CLEAN OUT		AIR CONDITIONING UNIT
	DRAINAGE MANHOLE		TRAFFIC SIGNAL STRAIN POLE
	TELEPHONE MANHOLE		SIGN
	TRAFFIC MANHOLE	<b>LINETYPES</b>	
	WATER MANHOLE		OVERHEAD ELECTRIC LINE
	INLET (ROUND CASTING)		FENCE
	INLET (CURB CASTING W/ MANHOLE)		EXISTING CONTOUR
	FIRE HYDRANT	<b>UTILITIES MARKED BY OTHERS</b>	
	WATER VALVE		BURIED TELEPHONE LINE
	WATER SHUT OFF		BURIED FIBER OPTIC LINE
	GAS METER		WATER LINE
			GAS LINE
			SANITARY SEWER LINE
			STORM SEWER LINE



**BENCHMARKS**  
 BM 437-21-1  
 GEAR SET IN SOUTH FACE  
 WEST SIDE OF CATALPA ST  
 STREET  
 ELEV=722.60  
 BM 437-21-2  
 CHISEL CROSS ON TOP  
 POLE IN THE SOUTHWEST  
 CORNER OF SAMPLE STREET AND PRAIRIE  
 AVENUE  
 ELEV=723.17



	3220 Southview Drive Elkhart, Indiana 46514 (574) 266-1010 Fax: (574) 262-3040 info@sam.biz www.sam.biz	© SURVEYING AND MAPPING LLC CAD FILE: 1021066190-DESIGN.dwg SCALE: 1" = 20' HORIZONTAL NONE VERTICAL DATE OF CERTIFICATION: 10/10/2022 ENGINEER: Debra S. Hughes, PE DRAWN BY: BLS		PROPOSED 806 SAMPLE SOUTH BEND LLC, 8 PT. NE 1/4, SEC. PORTAGE TWP., ST. JC JOB NO: 1021066190 437-2021	
				SHEET	

## Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

Approval of the variances should not be injurious to the public health, safety and general welfare of the community. The proposed setbacks are not out of character within this industrial area.

**(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**

The use and value of the adjacent properties should not be affected in a substantially adverse manner. The surrounding area is largely zoned I Industrial with a variety of industrial uses throughout. The pavement is already existing and the accessory structure will be located roughly where the current building is located.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The strict application of the Ordinance would result in practical difficulties in the use of the property. The site has 3 street frontages with limited access due to the nature of the adjacent roadways. With only 1 curb cut, the additional pavement is necessary to allow for safe turning radii and maneuverability throughout the site.

**(4) The variance granted is the minimum necessary**

The variance is the minimum necessary to provide safe maneuverability of the site.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The location of the site adjacent to 3 roads, including a State Highway, is not self created. The proposed development will actually lessen the degree of nonconformity for the site.

## Analysis & Recommendation

**Analysis:** The surrounding area is largely zoned I Industrial with a variety of industrial uses throughout. The pavement is already existing and the accessory structure will be located roughly where the current building is located. The site has limited access due to the 3 frontages and location of the intersection. To maintain traffic safety standards and safe maneuverability, the pavement will need to extend into the setback.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variances as presented.



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**Property Information**

Location: 339, 341, 343, and 345 LINCOLNWAY WEST and 306 WILLIAM ST  
Owner: POUYA PROPERTIES LLC

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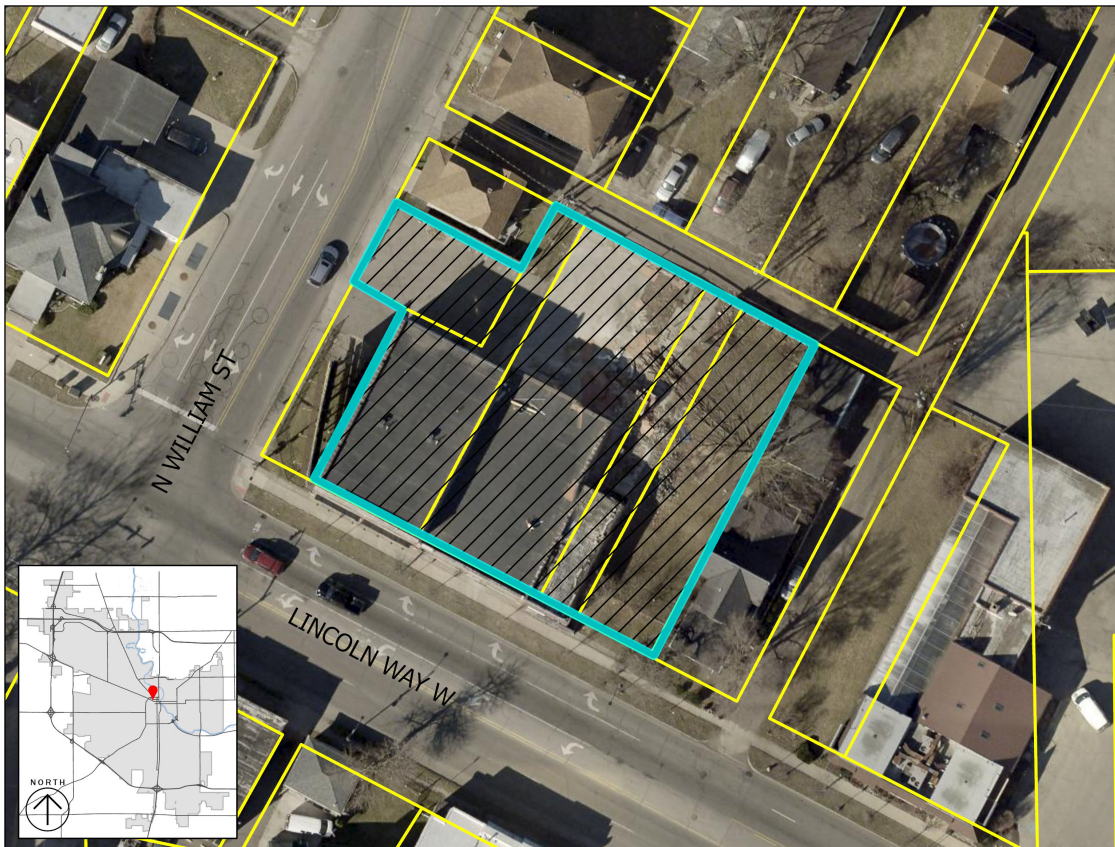
**Project Summary**

Utilize the existing driveway along Williams Street and the existing asphalt area for parking. Also provide a one-way entrance from Lincolnway West. This one-way entrance shall also give access to proposed parking along the east property line.

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**Requested Action**

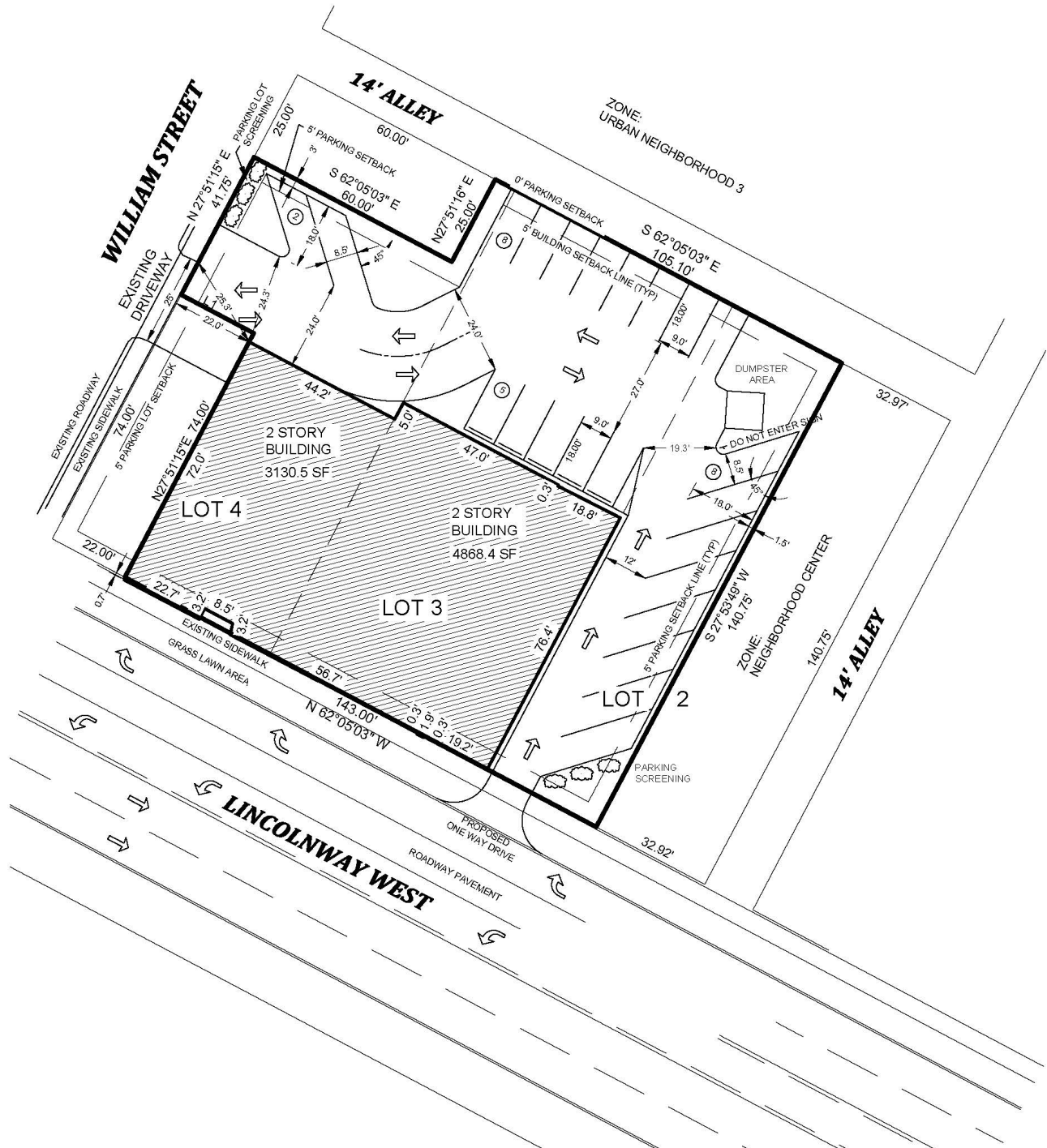
- Variance(s):
- 1) to allow new street access along Lincolnway West where an alley is available
  - 2) To allow the continued use of the existing street front access along Williams Street
  - 3) From the 5' minimum side setback for parking to 1.5 along the east property line
  - 4) From the required 5' minimum side setback for parking to 3' along the north property line
  - 5) From the 3 required bicycle parking spaces to none
  - 6) From the 15' minimum drive aisle width for one-way parking to 12'
  - 7) From the 24' minimum drive aisle width for two-way parking to 22'
- 

**Site Location****Staff Recommendation**

Based on the information available prior to the public hearing, the Staff recommends the variances be denied as presented.



Proposed Site Plan



## Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

The proposed variances could be injurious to the public health, safety and general welfare of the community. The access location shown on the Lincoln Way conflicts with designated turn lane, and the reduction in drive aisles create a situation that put the building and adjacent property as jeopardy of significant damage.

**(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**

The use and value of the adjacent property could be negatively impacted by the proposed variances. The addition of the access to Lincoln Way could create serious traffic safety concerns, which could impact the use and value of the adjacent property. The variances for setbacks and maneuvering aisles would likely lead to encroachments on the property to the east.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the Ordinance would not result in practical difficulties in the use of the property. The Staff has provided alternate parking layouts that would allow for the same, if not more, parking spaces without the need for variances.

**(4) The variance granted is the minimum necessary**

The variances requested are not the minimum necessary. There is no practical difficulty on the property and alternate layouts for parking are feasible.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

There is no hardship on the property. The variances requested are based on the layout of a property not adequately sized for the intended use.

## Analysis & Recommendation

**Analysis:** The extent of the variances needed illustrate that the property is simply not big enough to be used in the manner desired. The proposed curb cut location would create potential traffic safety concerns, because it conflicts with a designated turn lane on Lincoln Way. Alternative layouts can provide equal amounts of parking without the need for variances.

**Staff Recommendation:** Based on the information available prior to the public hearing, the Staff recommends the variances be denied as presented.

**Property Information**

Location: 506 OLIVE ST  
Owner: ALBERT AND ELLA WILLIAMS

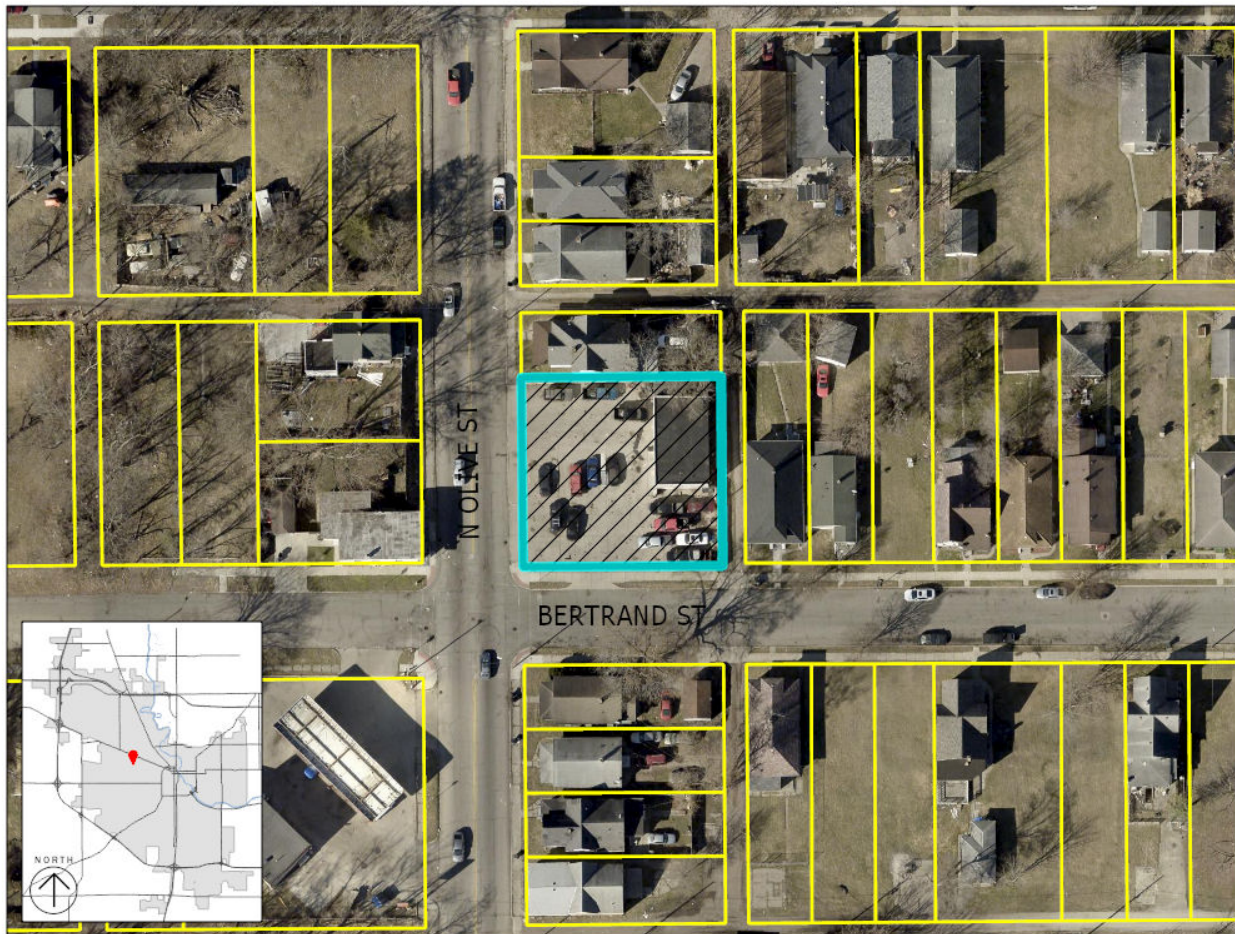
**Project Summary**

Allow for vehicle repair (rebuilding transmissions and light general repair) and maintain the site in the current configuration.

**Requested Action**

Special Exception: Vehicle Service, Major  
Variance(s): 1) to allow parking in the established front and corner yards  
2) from the 5' minimum parking area screening to none  
3) from 1 streetscape tree for every 30' of frontage to none

**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. Staff recommends the Board approve Variance #1 to allow parking in the established front and corner yards subject to no outdoor storage, and deny Variances 2 and 3.



Proposed Site Plan





### Criteria for Decision Making: Special Exception

**A Special Use may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

Provided the proper landscaping and screening are provided, the proposed use should not be injurious to the public health, safety, comfort, or general welfare of the community. The site development standards in the Ordinance are established to limit potentially negative impacts on the surrounding properties.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

As the property was initially constructed for the proposed use, approval of the Special Exception should not injure or adversely affect the use of the adjacent area, provided the appropriate landscaping and buffering is installed.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The Neighborhood Center Zoning District encourages pedestrian orientated development. The use of Minor Vehicle Service is an Special Exception in the district for instances such as this where the original intent of the building was for an automotive repair shop. Activation of the building in a manner that is sympathetic to the surrounding neighborhood is consistent with the character of the district.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The proposed use is consistent with City Plan (2006) Objective LU 2: Stimulate the rehabilitation and adaptive reuse of the property in the city

### Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

Approval of Variances should not be injurious to the public health, safety and general welfare of the community. These variances allow for the building to be used for its original intent. To help mitigate any potential impact on the general community, proper parking area screening and site landscaping should be upheld.

**(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**

The use and value of the area adjacent to the property included in the variance should not be affected in a substantially adverse manner. The site has existed in this layout since the

1960s. While parking in the established front/corner yard is not preferred, the proper parking area screening and site landscaping should reduce any negative impact on the surrounding properties use and value.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the Zoning Ordinance would require the building to be demolished and relocated in order to allow access and parking in a different configuration. The addition of landscaping, however, could easily be accomplished.

**(4) The variance granted is the minimum necessary**

The variance for parking location is the minimum necessary to operate the intended use in a reasonable manner. Though parking is not required, providing some off-street parking would be practical for the business. There is no practical difficulty for the requested landscaping variances, so it is not the minimum necessary.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

This site has been in this configuration since the 1960s. The Zoning regulations at the time did not prohibit parking in the front yard. Variance #1 is not correcting a hardship caused by the current owner. There are remedies that would allow the petitioner to install the proper landscaping.

## Analysis & Recommendation

**Analysis:** While the Neighborhood Center Zoning District encourages pedestrian orientated development, the use of Major Vehicle Service is an allowed Special Exception in the district for instances such as this where the original intent of the building was for an automotive repair shop. Activation of a currently vacant building to its original use is consistent with the character of the district and surrounding area.

Variances which allow for the current configuration of the building to remain as is for the parking lot and for transparency are reasonable to allow for the reuse of the building as originally constructed.

Variance from the required landscaping are viewed unfavorably as they do not prohibit the use or the usability of the site. The site contains no practical difficulties for establishing code compliant landscaping on the site.

**Staff Recommendation:** Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. Staff recommends the Board approve Variance #1 to allow parking in the established front and corner yards subject to no outdoor storage, and deny Variances 2 and 3.

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**Property Information**

Location: 1502 MIAMI RD  
Owner: SHARK INVESTMENTS LLC

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**Project Summary**

Allow a car detailing/carwash

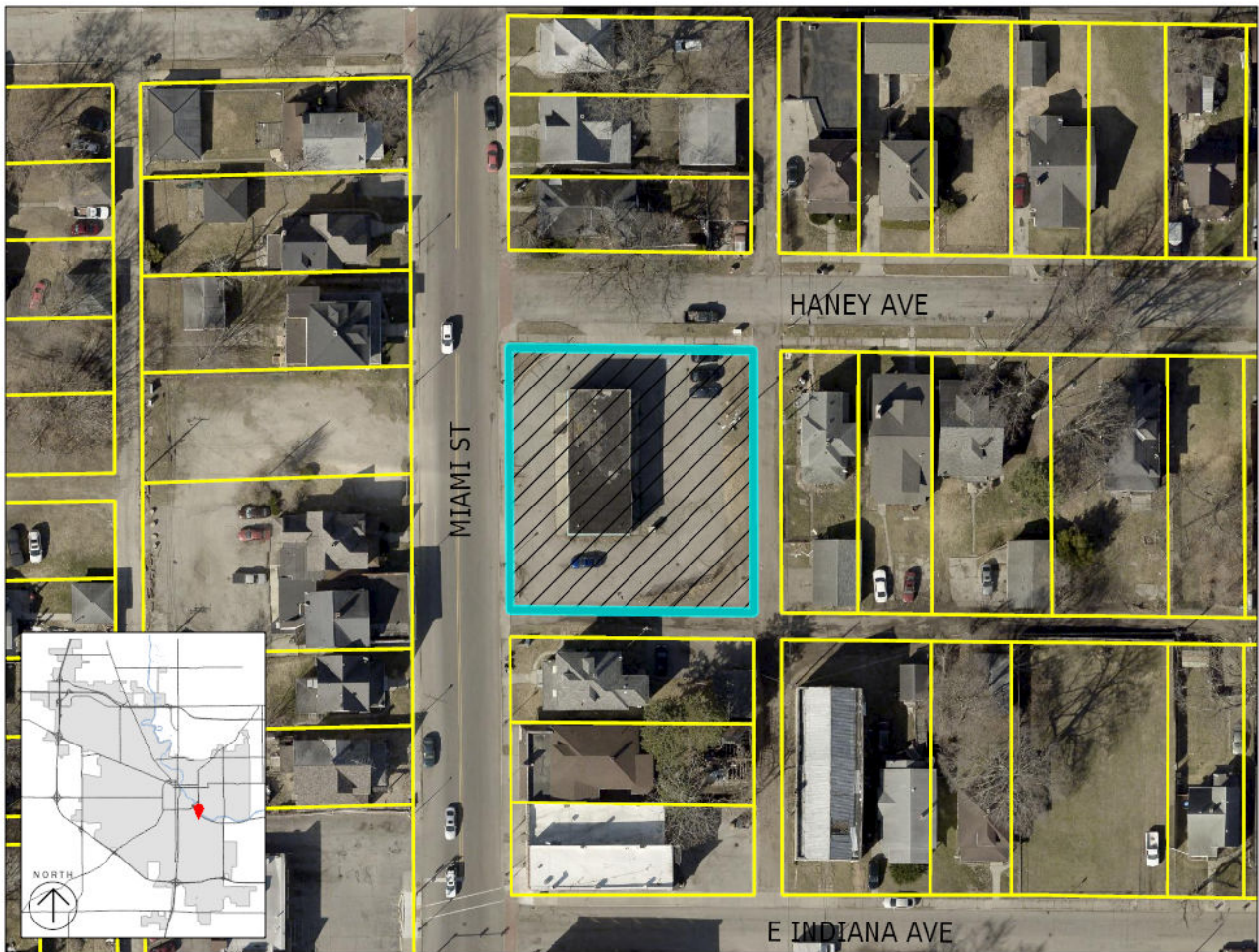
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**Requested Action**

Special Exception: minor vehicle service

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**Site Location**



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**Staff Recommendation**

Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.



Proposed Site Plan





## Criteria for Decision Making: Special Exception

**A Special Use may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

The proposed use should not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare. The building has been designed for automotive services for several decades. All the vehicle service activities occur within the fully enclosed building. There are not hazardous materials being used or fumes created by this particular automotive service.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

Since all the vehicle service activities occur with the fully enclosed building, approval of the Special Exception should not injure or adversely affect the use of the adjacent area.

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The Neighborhood Center Zoning District encourages pedestrian orientated development. The use of Minor Vehicle Service is an Special Exception in the district for instances such as this where the original intent of the building was for an automotive repair shop. Activation of the building in a manner that is sympathetic to the surrounding neighborhood is consistent with the character of the district.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The petition is consistent with City Plan (2006) Objective ED1: Stimulate the rehabilitation and adaptive reuse of property in the City.

## Analysis & Recommendation

**Analysis:** Granting the Special Exception will allow for the reuse of a building that was originally built for automotive purposes. Although the Neighborhood Center Zoning District outlines pedestrian orientated development, the use of Minor Vehicle Service is an allowed Special Exception in the district for such instances. With some minor landscaping improvements, the building can be reactivated in a way that works well with the surrounding area.

**Staff Recommendation:** Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.

**Property Information**

Location: 1405 PORTAGE AVE  
Owner: PEAK INVESTMENT & ASSET MANAGEMENT LLC

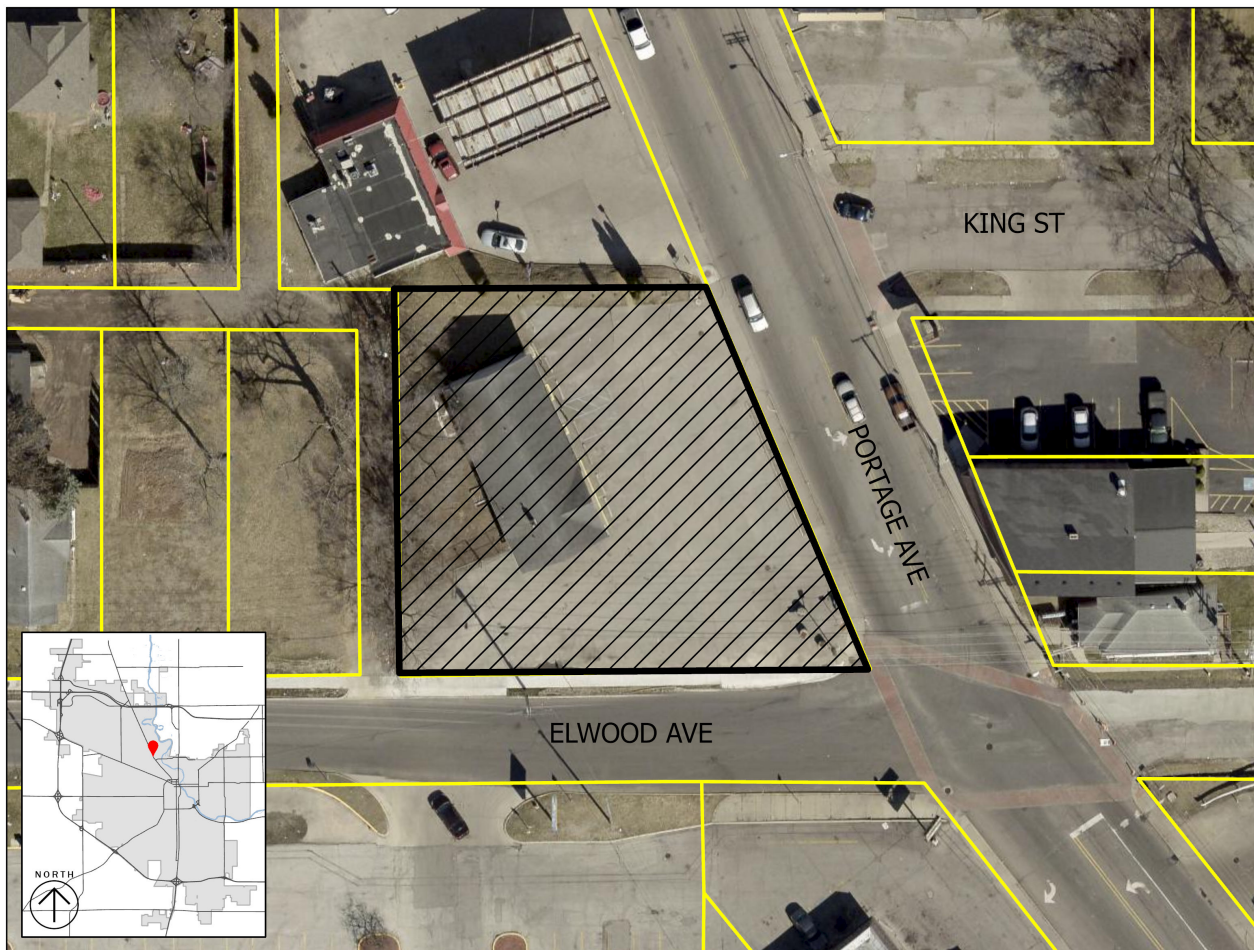
**Project Summary**

To open a tobacco/hookah/vaping shop at the existing 1 story building

**Requested Action**

Special Exception: Tobacco/Hookah/Vaping  
Variance(s): 1) To allow for parking in the establish front yard  
2) From the 60% minimum transparency to none

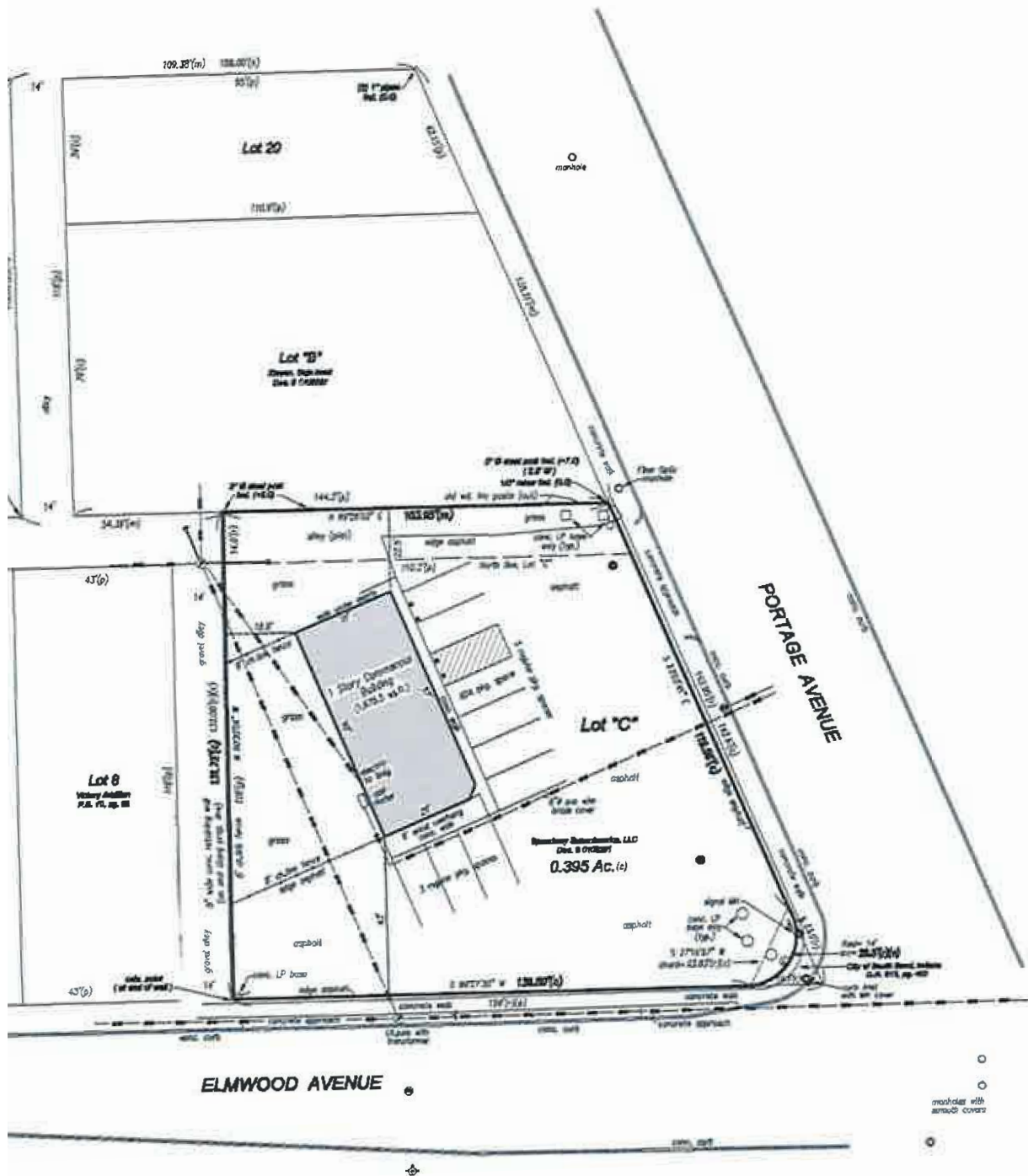
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation. The Staff recommends the Board approve variance #1 for parking in the established front yard, subject to meeting current development standards for off street parking and removing any excess pavement. The Staff recommends the Board deny variance #2.

Proposed Site Plan



### Criteria for Decision Making: Special Exception

**A Special Use may only be granted upon making a written determination, based upon the evidence presented at a public hearing, that:**

**(1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;**

Provided the site is brought up to the current development standards of the Ordinance, the proposed use should not be injurious to the public health, safety, or general welfare of the community. This portion of Portage Ave. has a mix of commercial and residential uses. With the commercial uses lining the corridor.

**(2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;**

The proposed use should not injure or adversely affect the use of the adjacent area or property values. With proper buffering and design, the proposed development should not have significant impact on surrounding residential property values. The developme

**(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;**

The proposed use will be consistent with the character of the district. The corridor has a mix of commercial uses and this use will be consistent in the development standards of the district.

**(4) The proposed use is compatible with the recommendations of the Comprehensive Plan.**

The petition, with City Plan, South Bend Comprehensive Plan (2006). Objective LU 2.2 Pursue a mix of land uses along major corridors and other locations identified on the Future Land Use Map.

### Criteria for Decision Making: Variance(s)

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community**

Since this is located in a commercial node, approval of the parking variances should not be injurious to the public health, safety, or general welfare of the community. The variance for reduction of transparency can have a negative impact on the safety of the community as it does not allow for visibility into the store and reduces visibility of the street.

**(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**

Approving the variance for minimum transparency could negative affect property values. Buildings without windows often look abandoned an can contribute to the perception of



blight in the area. With proper buffering, the variance for parking in the front yard should not adversely affect surrounding properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

Strict application of the Zoning Ordinance would require the building to be demolished and relocated in order to allow access and parking in a different configuration. The window cavities appear to still be in place, which should eliminate any practical difficulty from reestablishing the proper transparency on the building.

**(4) The variance granted is the minimum necessary**

Provided the parking area is configured to meet current design standards and any excess pavement is removed, the variance should be the minimum necessary to allow for operation of the site. The variance requested for the transparency is not the minimum necessary since the windows can easily be reinstalled.

**(5) The variance does not correct a hardship cause by a former or current owner of the property**

The building was developed prior to standards that promoted street activation and pedestrian scaled design. The hardship for the building location was not created by the owner. The building, however, was designed with a large amount of windows that would meet or exceed the current Ordinance. They have been covered over time by previous owners and could easily be restored to meet the intent of the district.

## Analysis & Recommendation

**Analysis:** With proper buffering and design, the proposed development should not have significant impact on surrounding residential property values. The development standards of the NC Neighborhood Center district should be applied to the property to help mitigate any impact on the surrounding neighborhood. This property is located at a commercial node along Portage Avenue.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation. The Staff recommends the Board approve variance #1 for parking in the established front yard, subject to meeting current development standards for off street parking and removing any excess pavement. The Staff recommends the Board deny variance #2.