

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Tuesday, January 3, 2023 - 4:00 p.m.

County-City Building
Fourth-Floor Council Chambers
www.tinyurl.com/sbbza

ADMINISTRATIVE ITEMS:

1. Election of Officers

PUBLIC HEARING:

1. **Location:** 815 ST LOUIS BLVD BZA#0165-23
Owner: SOUTH BEND REALTY LLC
Requested Action: Variance(s): 1) From the 5' minimum side yard setback to 1'
Zoning: U1 Urban Neighborhood 1
2. **Location:** 825 POTTER POINT DR BZA#0166-23
Owner: MICHAEL D & TERESA L HARDY
Requested Action: Variance(s): 1) From the maximum 1383.3 sq.ft. for an accessory structure to 2400 sq.ft; and 2) From the maximum 4 car capacity for all garages and carports to 5
Zoning: S1 Suburban Neighborhood 1
3. **Location:** 2115 MORRIS ST BZA#0167-23
Owner: HERMELINDA DE LA CRUZ and JOSE T REYES
Requested Action: Variance(s): 1) From the maximum 1 detached accessory structure to 2; 2) From the 5' minimum side setback to 2' for the carport and 4' for the detached porch; 3) From the 5' minimum rear setback to 0'; 4) From the 1,216 maximum square feet for detached accessory structure to 1,565 square feet; and 5) To allow a garage door at a 0' setback
Zoning: U1 Urban Neighborhood 1
4. **Location:** 1502 MIAMI RD BZA#0139-22
Owner: SHARK INVESTMENTS LLC
Requested Action: Special Exception: Minor Vehicle Service
Zoning: NC Neighborhood Center
5. **Location:** 7468 AND 7686 VORDEN PKWY BZA#0168-23
Owner: 7468 VORDEN PARKWAY LLC
Requested Action: Special Exception: Heavy Industrial
Zoning: I Industrial

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact - December 5, 2022
2. Minutes - December 5, 2022
3. Other Business
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: 815 ST LOUIS BLVD
Owner: SOUTH BEND REALTY LLC

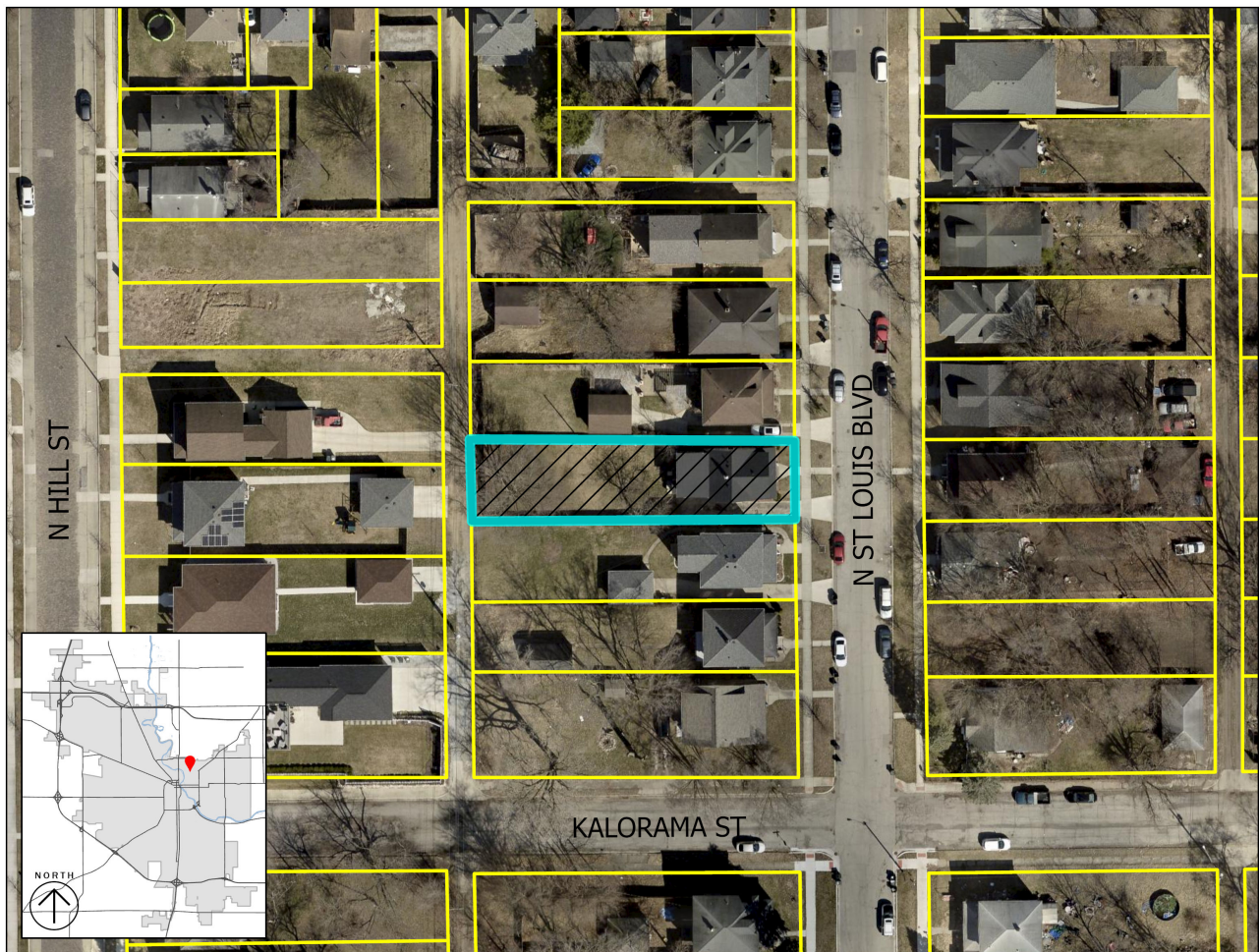
Project Summary

To construct a one car garage in line with the end of the driveway.

Requested Action

Variance(s): 1) From the 5' minimum side yard setback to 1'

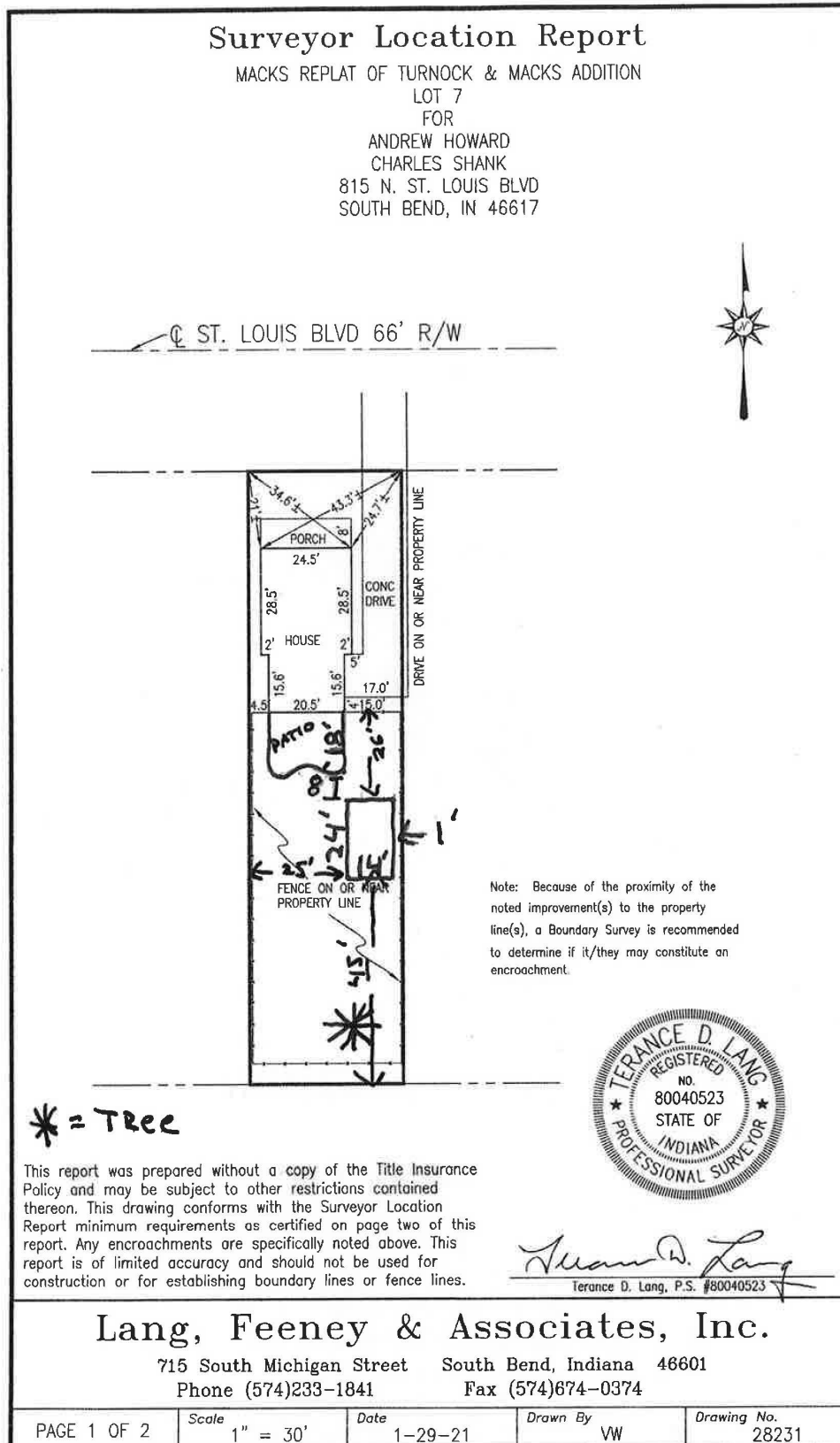
Site Location



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

Minimum setbacks are established to set the bare minimum needed in order to protect the health, safety, and general welfare of the community. Approving a variance that is not consistent with the character of the area or the intent of the Ordinance can be injurious to the 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 use and value of the adjacent property may be adversely affected if the variance is granted. A smaller setback could lead to difficulties in maintaining both properties as well as setting precedence for expanding all houses of the neighborhood into the side setback without just cause.

(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 Zoning Ordinance would not result in practical difficulties in the use of the property. There is nothing unique about the property that creates difficulty in the residential use of the property. There is adequate space in the back yard to accommodate the required 5' setback. The garage once served by the driveway no longer exists and is not permitted under the Ordinance. There are no practical difficulties that prevent access from the alley and the garage being placed at the appropriate setback.

(4) The variance granted is the minimum necessary

The variance granted is not the minimum necessary. The use and operation of the accessory building can still be utilized while placed in its proper location. The alley that serves this property is in good order and has been developed with other garages in accordance with the Ordinance.

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

There is no practical difficulty or hardship that prevents a garage from being installed in a code compliant location. The request is a self created.

Analysis & Recommendation

Analysis: There are no practical difficulties that prevent the petitioner from placing the accessory building in a code compliant location. The pattern of development in the area does not supports the request. The petition does not meet the criteria for decision making. The use of the alley should be restored to allow for a code compliant location.

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: 825 POTTER POINT DR
Owner: MICHAEL D & TERESA L HARDY

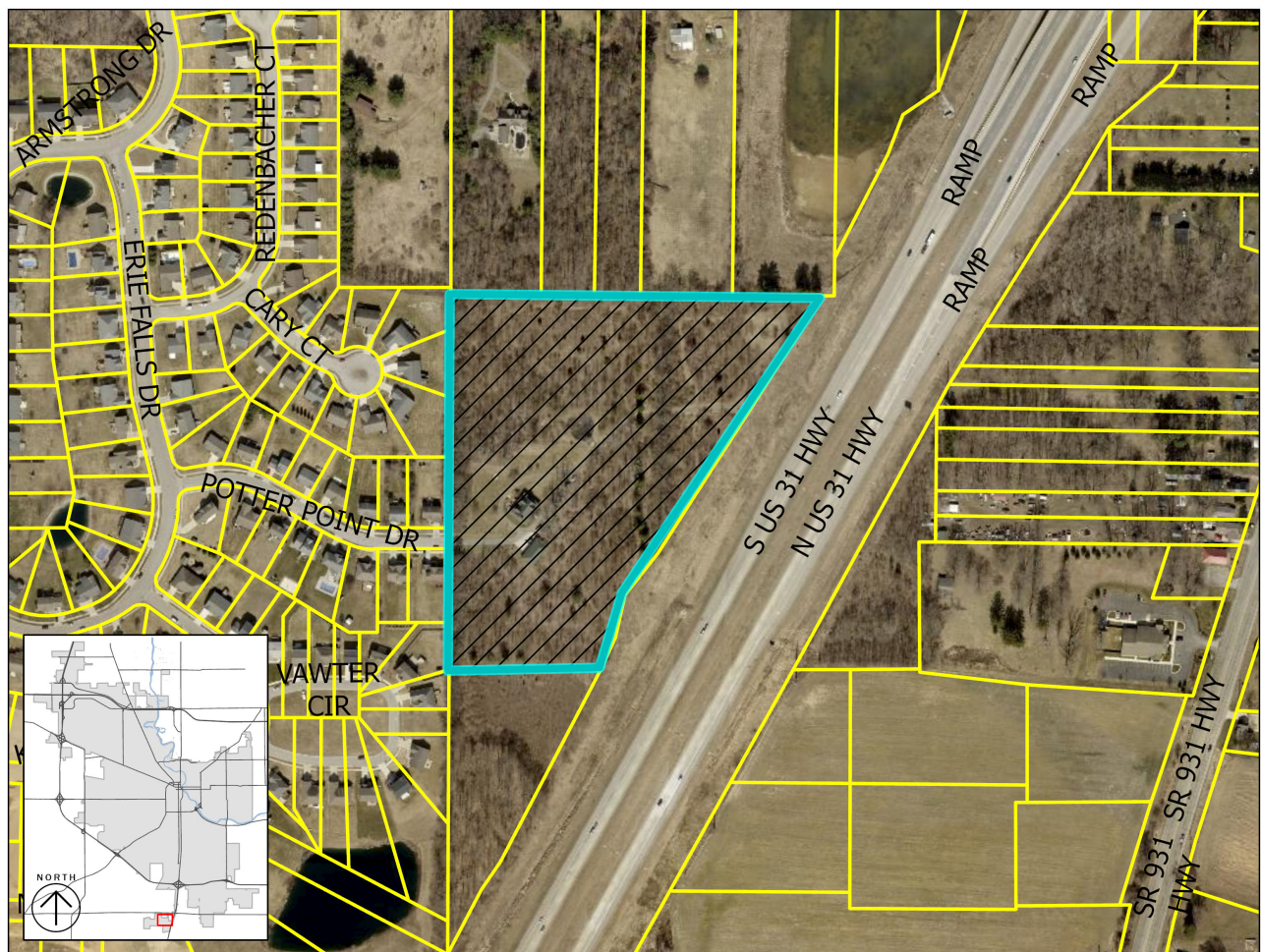
Project Summary

An addition to the existing garage

Requested Action

Variance(s): 1) From the maximum 1383 sq. ft. for an accessory structure to 2400 sq.ft.
2) From the maximum 4 car capacity for all garages and carports to 5

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

<p>WIGHTMAN 1670 LAMAR RD. ALEXANDRIA, IN 46010 317.933.6666 www.wightman.com</p>	<p>PROJECT: 825 SOUTH DR., SOUTH BEND, IN. 46814</p>	<p>CLIENT: MIKE HARDY</p>
	<p>DESCRIPTION: Site Plan for 825 South Dr., South Bend, IN 46814. The site is currently zoned R-1 and is being proposed for rezoning to R-2. The site is located in the South Bend area and is bounded by South Dr. to the north and east, and Potter Point Drive to the south and west. The site is currently vacant and is being proposed for residential development. The proposed development includes a 2-story log house, a 3-stall garage, and a 24.0' x 24.0' deck. The total area of the site is 1.38 acres. The site is being proposed for rezoning to R-2 because it meets the requirements of the zoning ordinance. The rezoning is necessary to allow for the proposed residential development. The rezoning is being proposed by Mike Hardy, the owner of the site. The rezoning is being proposed for the entire site, which is 1.38 acres. The rezoning is being proposed for the entire site because it meets the requirements of the zoning ordinance. The rezoning is being proposed for the entire site because it meets the requirements of the zoning ordinance.</p>	
<p>SCALE: 1" = 30' DATE: 11/17/2022 DRAWN BY: J. W. WIGHTMAN CHECKED BY: J. W. WIGHTMAN</p>		
<p>SITE PLAN</p>		<p>Model</p>

AREA BOARD OF ZONING APPEALS

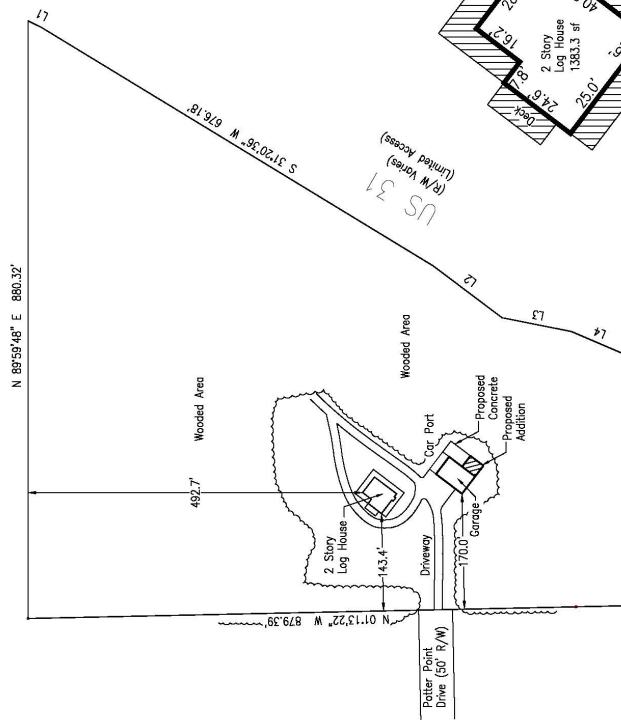
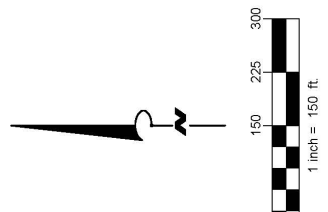
PART OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 36 NORTH,
RANGE 2 EAST, CENTRE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

FOR:

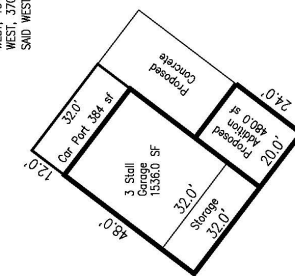
MICHAEL & TERESA HARDY
825 POTTER POINT DRIVE
SOUTH BEND, INDIANA 46614

PROPERTY ADDRESS:
825 POTTER POINT DRIVE
SOUTH BEND, INDIANA 46614
CURRENT ZONING:
SUBURBAN NEIGHBORHOOD 1

LEGAL DESCRIPTION:
PART OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 36 NORTH, RANGE 2
EAST, CITY OF SOUTH BEND, CENTRE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA BEING
MORE PARTICULARLY AS COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST
QUARTER OF SAID SECTION 2, THENCE SOUTH 01°13'22" EAST, 995.88 FEET TO THE
POINT OF BEGINNING; THENCE NORTH 89°59'48" EAST, 880.32 FEET TO THE WESTERLY
RIGHT-OF-WAY OF U.S. HIGHWAY 31 AS DESCRIBED IN ST. JOSEPH COUNTY, INDIANA
SUPERIOR COURT CAUSE NUMBER 71005-0001, DATED OCTOBER 1, 2012; THENCE
ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 31 THE NEXT FIVE (5)
COURSES: (1) SOUTH 25°02'43" WEST, 213.56 FEET; (2) SOUTH 31°03'58" WEST,
619.16 FEET; (3) SOUTH 37°02'43" WEST, 476.69 FEET; (4) THENCE SOUTH 15°15'10"
WEST, 104.40 FEET; (5) SOUTH 23°11'18" WEST, 84.67 FEET; THENCE SOUTH 88°48'11"
WEST, 370.57 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE ALONG
SAID WEST LINE, NORTH 01°13'22" WEST, 673.39 FEET TO THE POINT OF BEGINNING.



LINE	BEARING	DISTANCE
L1	S 25°48'16" W	214.33'
L2	S 37°02'43" W	126.59'
L3	S 11°15'10" W	104.40'
L4	S 23°11'18" W	84.67'



Detail:
Scale: 1" = 30'

HOUSE: 1383.3 SF
EX GARAGE: 1536.0 SF
CARPORT: 384.0 SF
GARAGE ADDITION: +480.0 SF
2400.0 SF

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 approval of the variances should not be injurious to the public health, safety and general welfare of the community. The property is a large parcel isolated between a suburban development and the US-31 Highway.

(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 structures are setback from the public street, so the use and value of the adjacent area should not be affected in an adverse manner. Due to the large lot size and the rear property line fronting a US highway their should be minimal impact on the surrounding properties.

(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 result in a practical difficulty in the use of the property. The property is significantly larger than a typical City property. The Ordinance does not anticipate lots of this size.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary to allow for expansion of a garage on the lot. The lot could be subdivided in the future and meet the intentions of the ordinance.

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

The location of the rerouted US highway lead to the creation of a lot that has a rural size and character. The location of the highway and resulting lot are not created by the current or former owner.

Analysis & Recommendation

Analysis: The 12 acre parcel is bound by a suburban residential development and US-31 Highway. The size of the property warrants consideration and relief from the strict application of the Ordinance.

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

Property Information

Location: 2115 MORRIS ST
Owner: HERMELINDA DE LA CRUZ and JOSE T REYES

Project Summary

To allow for a carport and detached porch for entertaining.

Requested Action

- Variance(s): 1) From the maximum 1 detached accessory structure to 2
- 2) From the 5' minimum side setback to 2' for the carport and 4' for the detached porch
- 3) From the 5' minimum rear setback to 0'
- 4) From the 1,216 maximum square feet for detached accessory structure to 1,565 square feet
- 5) To allow a garage door at a 0' setback

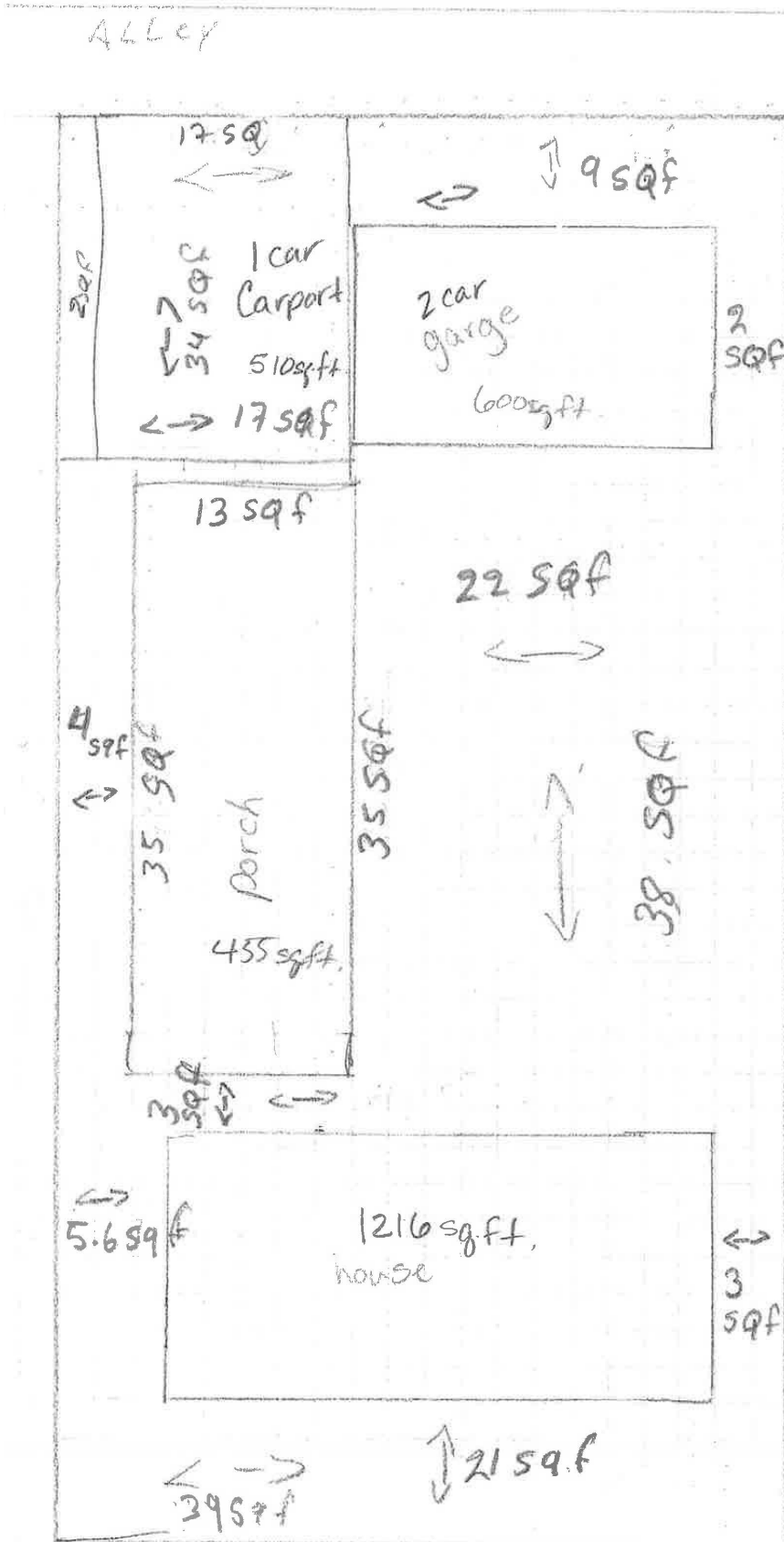
Site Location



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



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 morals and general welfare of the community. Setbacks are established to provided the minimum needed to insure adequate access to the property and space for maintenance of the structures.

(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 may be substantially impacted by the requested varainces. The structures have expanded or been constructed closer to the property line than permitted in a manner that is not consistent with the Zoning Ordinance or Building Code.

(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 practical difficulties in the use of the property. There are no physical constraints from the sructures being built in compliance with the Ordinance. The porch should either be structurally connected to the primary building or existing detached accessory structure.

(4) The variance granted is the minimum necessary

The requested variances are not the minimum necessary. There is adequate, unobstructed area within the yard to build the structures in a code compliant location.

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

The variances requested are self created. There are no hardships that prevent the structures from being built at the appropriate setback. The structures were built without permits. If the petitioner had filed permits, proper setback and construction requiriements could have been addressed.

Analysis & Recommendation

Analysis: Setbacks are established to provided the minimum needed to insure adequate access to the property and space for maintenance of the structures. There are no practical difficulties that prevent the structures from being constructed in accordance with the Ordinance.

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: 1502 MIAMI RD
Owner: SHARK INVESTMENTS LLC

Project Summary

Allow a car detailing/carwash

Requested Action

Special Exception: Minor Vehicle Service

Site Location



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: 7468 AND 7686 VORDEN PKWY
Owner: 7468 VORDEN PARKWAY LLC

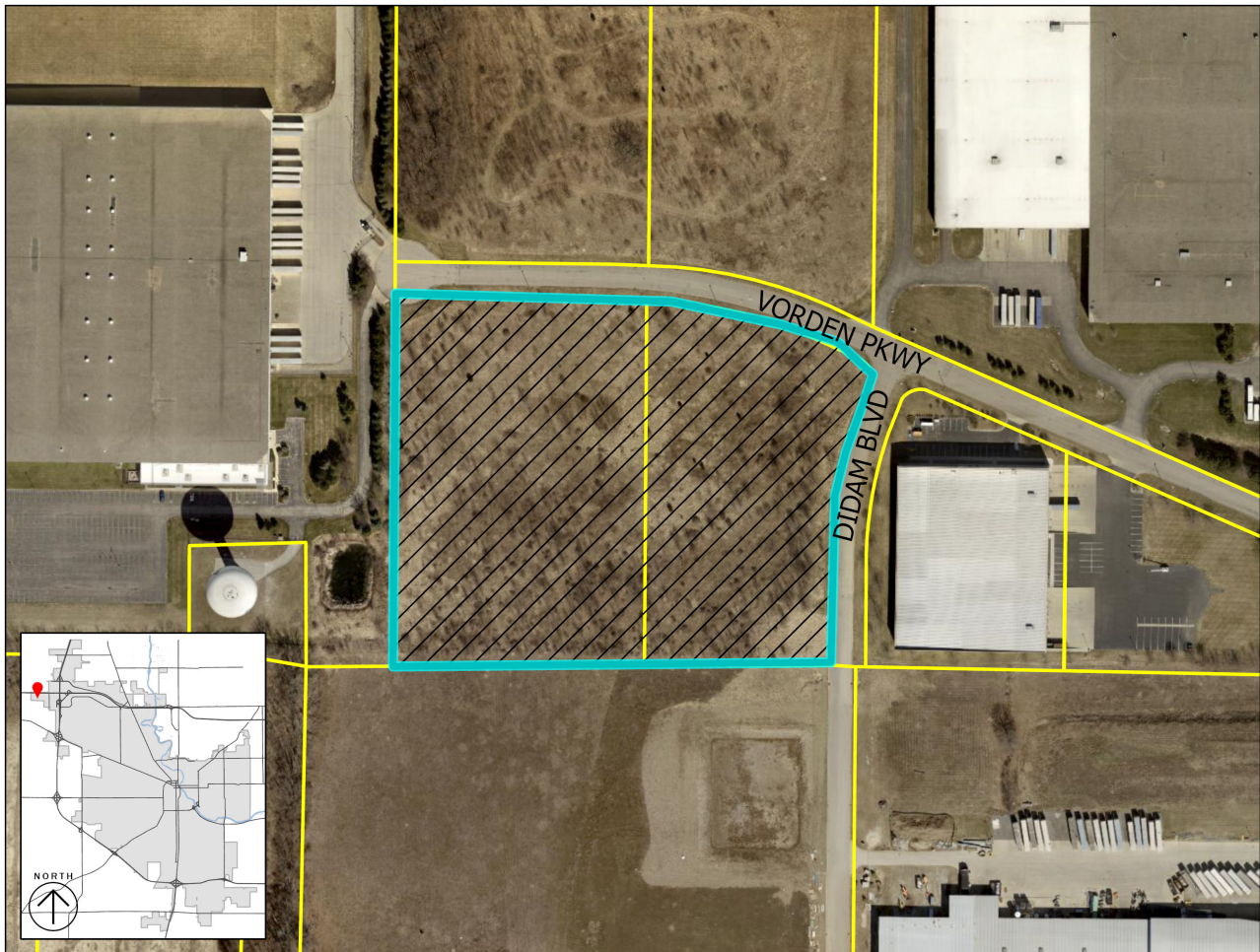
Project Summary

Construction of a 94,000+ sq. ft. warehouse and distribution facility for Coast Southwest, a full-service, chemical distributor. The facility will accommodate future expansion in phases up to 200,000 sq. ft. to potentially include space for research, development, and manufacturing.

Requested Action

Special Exception: Heavy Industrial

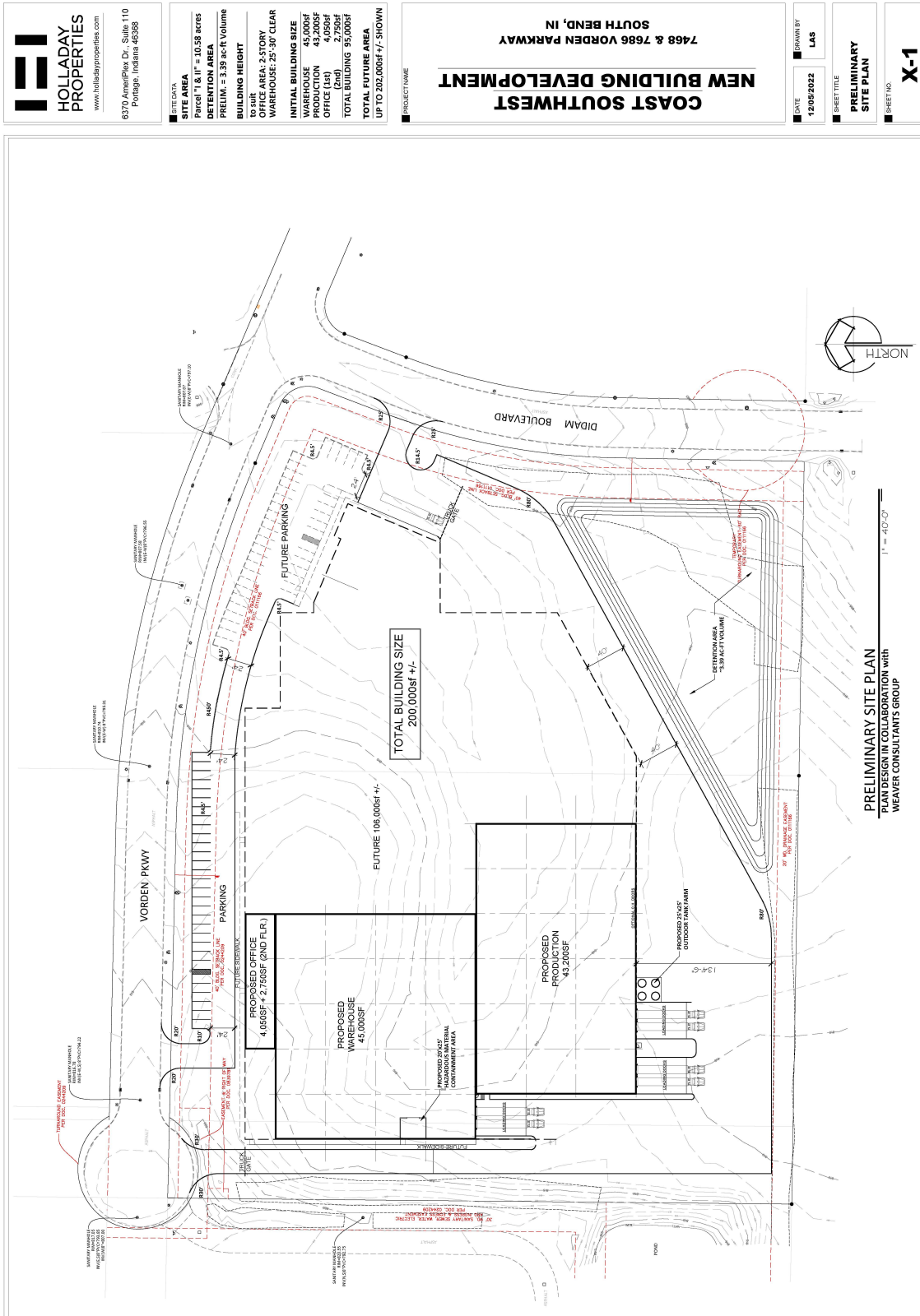
Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the 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 is in an area comprised exclusively of industrial uses. A heavy industrial use should not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.

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

The property is located in an area that is exclusively industrially zoned and the proposed heavy industrial use is located in the established rear yard. The proposed heavy industrial uses should not adversely affect the use or value of surrounding properties.

(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 of heavy industry is consistent with the character of the district in which it is located and the surrounding land uses.

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

The petition is consistent with City Plan (2006) (Objective ED2) Retain existing businesses and recruit new ones to the city. Allowing heavy industry use on this site will allow for the addition of a business in the city in an appropriately located area.

Analysis & Recommendation

Analysis: The proposed use is located in an industrial park. This is a suitable location for heavy industrial uses which should not negatively impact the broader community and should help recruit a new business to the city.

Staff Recommendation: Based on the information provided prior to the public hearing, the Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.