

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, August 7, 2023 - 4:00 p.m.

County-City Building

Fourth-Floor Council Chambers

www.tinyurl.com/sbbza

PUBLIC HEARING:

1. **Location:** 501 and 509 DUNDEE ST and the vacant lot north and adjacent to 509 Dundee
BZA#0199-23
Owner: RJ & L LANDSCAPING
Requested Action:
Variance(s):
1) to allow an accessory structure without a primary
Zoning: U1 Urban Neighborhood 1

2. **Location:** 0 AMERITECH DR
BZA#0208-23
Owner: ECO INDUSTRIES LLC
Requested Action:
Variance(s):
1) From the 4' maximum fence height for a 50% open fence in the front yard without a primary structure to 6'
2) To allow the fence to be topped with barbed wire in all yards
3) To forgo the installation of a sidewalk on the parcel
Zoning: I Industrial

3. **Location:** 902 and 912 MERRILL CT
BZA#0209-23
Owner: GERALD WELCH
Requested Action:
Variance(s):
1) from the 3' maximum fence height in the front and corner yard to 6'
2) to allow an accessory building in the established front and corner yard
Zoning: U3 Urban Neighborhood 3

4. **Location:** Northeast corner of St. Louis and Wayne
BZA#0210-23
Owner: UNITED CHURCH OF CHRIST ZION CHURCH
Requested Action:
Variance(s):
1) from the 32 sq.ft. maximum sign area to 88 sq.ft.
2) from the 8' maximum sign height to 12'-1"
Zoning: NC Neighborhood Center

5. **Location:** 3808 RAINBOW DR
BZA#0211-23
Owner: NEIL G WARRELL AND JESSICA STUTTS-WARRELL
Requested Action:
Variance(s):
1) from the 3' maximum fence height in the established corner yard to 6'
Zoning: S1 Suburban Neighborhood 1

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

6. **Location:** 502 SAMPLE BZA#0212-23
Owner: BOYS & GIRLS CLUB OF ST JOSEPH COUNTY
Requested Action:
Variance(s):
1) from the 8' total maximum sign height to 10'
Zoning: U3 Urban Neighborhood 3
7. **Location:** 1509 CARROLL ST and 240 HANEY AVE BZA#0213-23
Owner: EFFIE GROVES
Requested Action:
Variance(s):
1) from the maximum 3' fence to 6' in the established corner yard
Zoning: U1 Urban Neighborhood 1
8. **Location:** 1708 ADAMS ST BZA#0214-23
Owner: CHAMPER JAMES & SONDRAL CHAMPER
Requested Action:
Variance(s):
1) from the maximum 1 detached accessory structure to 2
2) from the 5' minimum rear yard setback to 0'
Zoning: S1 Suburban Neighborhood 1
9. **Location:** 2400 HURON ST (519 S. Olive Street) BZA#0215-23
Owner: ST ADALBERTS PARISH
Requested Action:
Variance(s):
1) from the 4' maximum fence height in the established front and corner yard to 6'
Zoning: U3 Urban Neighborhood 3
10. **Location:** 2301 DUBAIL AVE BZA#0216-23
Owner: NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND
Requested Action:
Variance(s):
1) to allow an accessory use and structure without a primary building
Zoning: U1 Urban Neighborhood 1
11. **Location:** 425 MADISON BZA#0217-23
Owner: OAKLAWN PSYCHIATRIC CENTER INC
Requested Action:
Variance(s):
1) to allow parking in the established front and corner yard
Zoning: DT Downtown
12. **Location:** 601 JEFFERSON BLVD BZA#0218-23
Owner: SUR LLC DBA CHIMICHURRI RESTAURANT
Requested Action:
Variance(s):
1) From the 10' maximum building setback to 38
2) from the 60% minimum facade transparency to 35%
Zoning: DT Downtown

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

13. **Location:** 305 MADISON ST BZA#0219-23

Owner: CAREER ACADEMY OF SOUTH BEND INC

Requested Action:

Variance(s):

- 1) to allow a curb cut where alley access is available
- 2) to allow an accessory structure in the established front or corner yard
- 3) from the 12' maximum front and corner setback to 41' on Lafayette, 38' on Madison, and 169' on Marion
- 4) from the 20% minimum ground floor transparency to 0% on the south elevation
- 5) to allow loading in the established corner yard
- 6) to allow loading and unloading activity to encroach upon a public right-of-way
- 7) to allow trucks to back from or into a public street
- 8) from the maximum 32' vertical articulation on street facing facades to none
- 9) from the required horizontal articulation to none

Zoning: NC Neighborhood Center

14. **Location:** 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY BZA#0196-23

Owner: SALAMEH RAMADAN AND TAMI-LYN

Requested Action:

Special Exception: Vehicle Sales or Rental

Zoning: NC Neighborhood Center

15. **Location:** 1044 LINCOLNWAY BZA#0220-23

Owner: RONALD E KOEHLER

Requested Action:

Special Exception: a Group Residence

Zoning: U3 Urban Neighborhood 3

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact - June 5, 2023
2. Minutes - June 5, 2023
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: 501 and 509 DUNDEE ST and the vacant lot north and adjacent to 509 Dundee
Owner: RJ & L LANDSCAPING

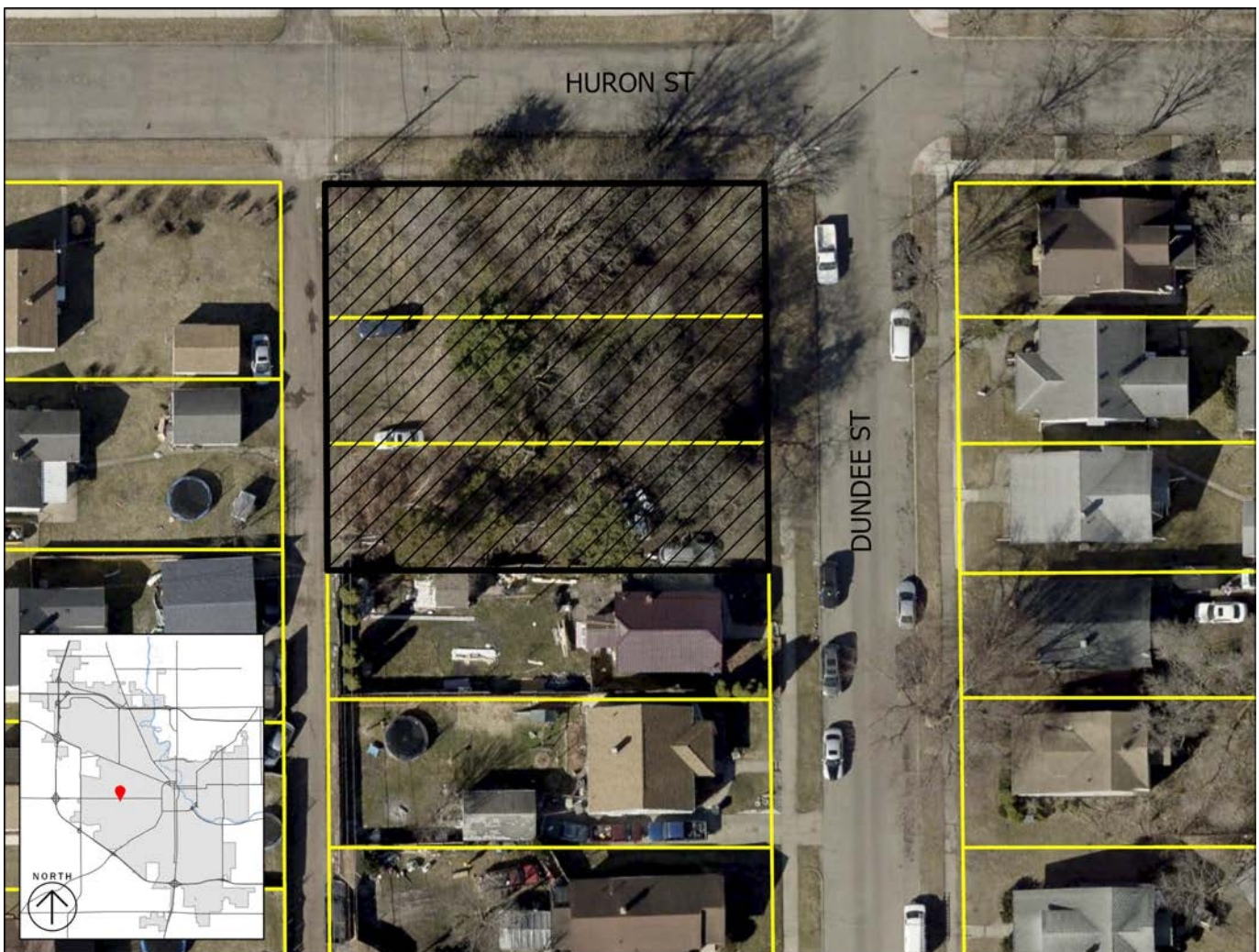
Project Summary

Install a 6' tall wooden privacy fence around three (3) vacant lots to secure company vehicles and equipment.

Requested Action

Variance(s): 1) to allow an accessory structure without a primary

Site Location



Staff Recommendation

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

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

Allowing a 6' privacy fence to enclose three vacant lots to park work vehicles could be injurious to the general welfare of the community because it will be out of character for the residential neighborhood and will not meet the intent of the Ordinance.

(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 could be affected in an adverse manner if the variance was granted. Approving a fence encompassing a 120' X 142' area would have a negative 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 Ordinance would not result in practical difficulties in the use of the property. The proposed is zoned for residential uses. There is nothing unique about the property that would prevent it from being used in accordance with the Ordinance.

(4) The variance granted is the minimum necessary

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary. If the variance is granted, the likely outcome would be numerous violations with the Ordinance, including, but not limited to, the use of the property, parking an an unimproved surface, and failure to meet drainage requirements.

(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 petitioner is requesting to fence in three vacant lots to park a company vehicle and equipment on property that is not zoned for such a use.

Analysis & Recommendation

Analysis: There are no practical difficulties for the petitioner that would necessitate fencing at this location. The proposed fence is not consistent with the intent of the ordinance nor is parking of commercial vehicles in the U1 district. Fencing in residentially zoned property to park company vehicles is not an allowed nor appropriate use in the neighborhood.

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

Property Information

Location: 0 AMERITECH DR
Owner: ECO INDUSTRIES LLC

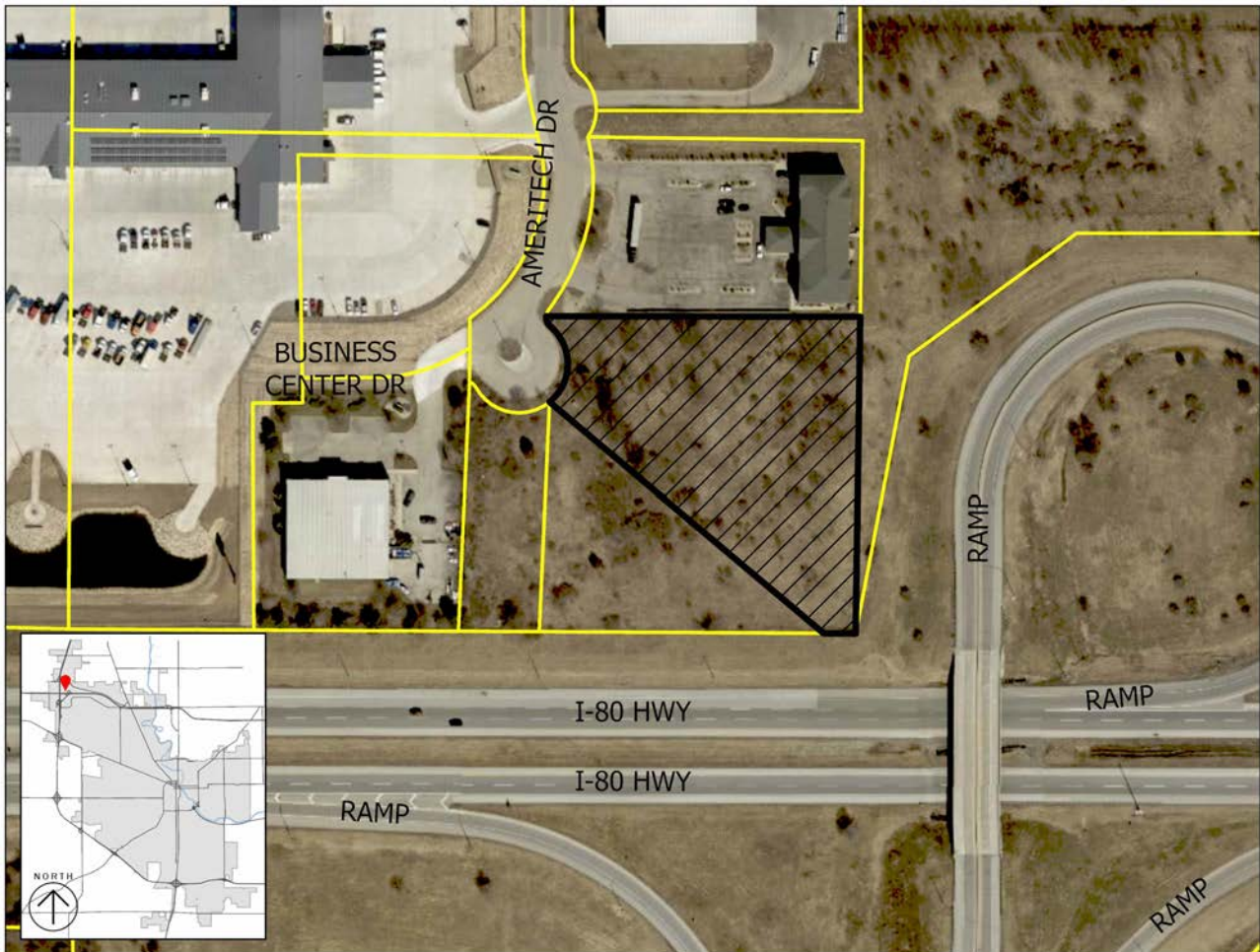
Project Summary

Development of vacant lot to a paved, fenced in and lighted parking area for cargo trailers.

Requested Action

Variance(s): 1) to allow an accessory structure (fence) without a primary building.
2) to allow the fence to be topped with barbed wire in all yards; and
3) from the required sidewalk along all street frontages to none

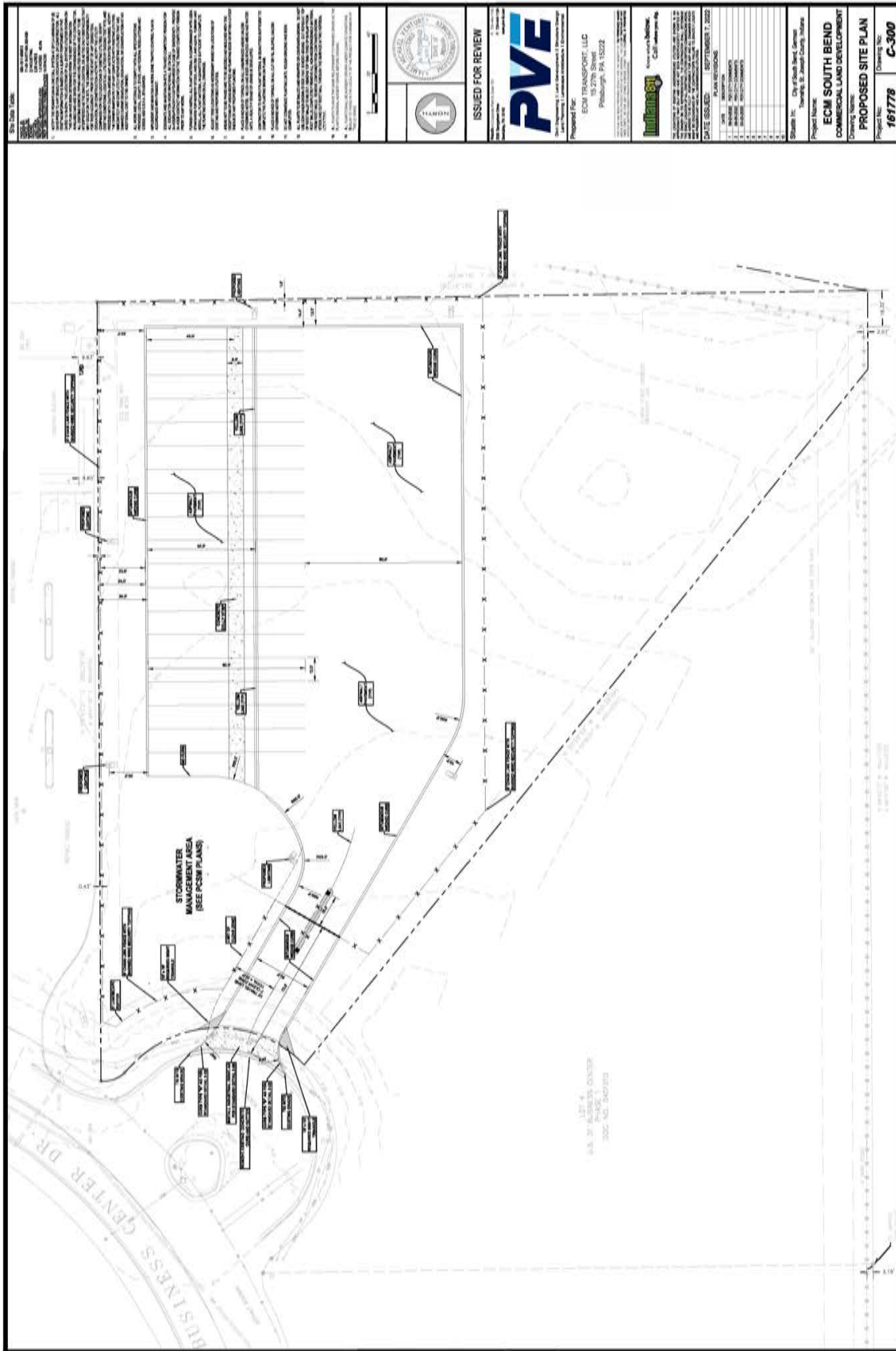
Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the Board approve variance #1 to allow for the accessory without a primary, and deny variances #2 and #3.

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 variance from the required sidewalk could be injurious to the public health and safety of the community, because it would require pedestrians to walk in the street or impede future connections as the surrounding properties developed. The variance for the barbed wire could be injurious to the morals and general welfare of the community because it is out of character for the area and would set a negative precedent for 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

Provided the fence does not exceed 6' in height and meets the general building setback, the use and value of adjacent properties would not likely be affected by the variance to allow the fence. However, adding barbed wire to the top and not installing the proper streetscape improvements could adversely affect the use and value of the properties in the area.

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

Since the use does not necessitate a building, strict application to require a primary building before allowing a fence does create a practical difficulty. There are no practical difficulties that warrant the variance for the barbed wire or the sidewalk. Engineering recommends against granting a variance to waive the sidewalk requirement. As part of the complete streets policy, any site that redevelops is required to install sidewalk, regardless of the existence or lack thereof of adjacent sidewalks. As parcels continue to redevelop, sidewalk gaps will continue to be filled. Similar developments in industrial areas have been required to install sidewalk at the time of development, like this site.

(4) The variance granted is the minimum necessary

If the fence is setback a minimum of 15' and is at least 50% open, as allowed in other Industrial areas, the request would be the minimum necessary. Because there is no practical difficulty to justify the request for barbed wire or the sidewalk installation, granting a variance for those would not be the minimum necessary.

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

The property is currently vacant. The desire for barbed wire and not to install a sidewalk is self-created. While the desire to have a fence is also self created, the fact that a fence is not otherwise permitted without a building does create a practical difficulty that is not self created.

Analysis & Recommendation

Analysis: Allowing a fence on the lot to secure the parking lot is consistent with the Ordinance. However, allowing bared wire on top is not appropriate in the City, except in specific instances. As part of the complete streets policy, any site that redevelops is required to install sidewalk, regardless of the existence or lack thereof of adjacent sidewalks. As parcels continue to redevelop, sidewalk gaps will continue to be filled.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve variance #1 to allow for the accessory without a primary, and deny variances #2 and #3.

Property Information

Location: 902 and 912 MERRILL CT
Owner: GERALD WELCH

Project Summary

6' privacy fence to keep out vandals and keep in dogs. Terrible area for theft and destruction. Need to keep criminals out.

Requested Action

Variance(s): 1) from the 3' maximum fence height in the front and corner yard to 6'
2) to allow an accessory building in the established front and corner yard

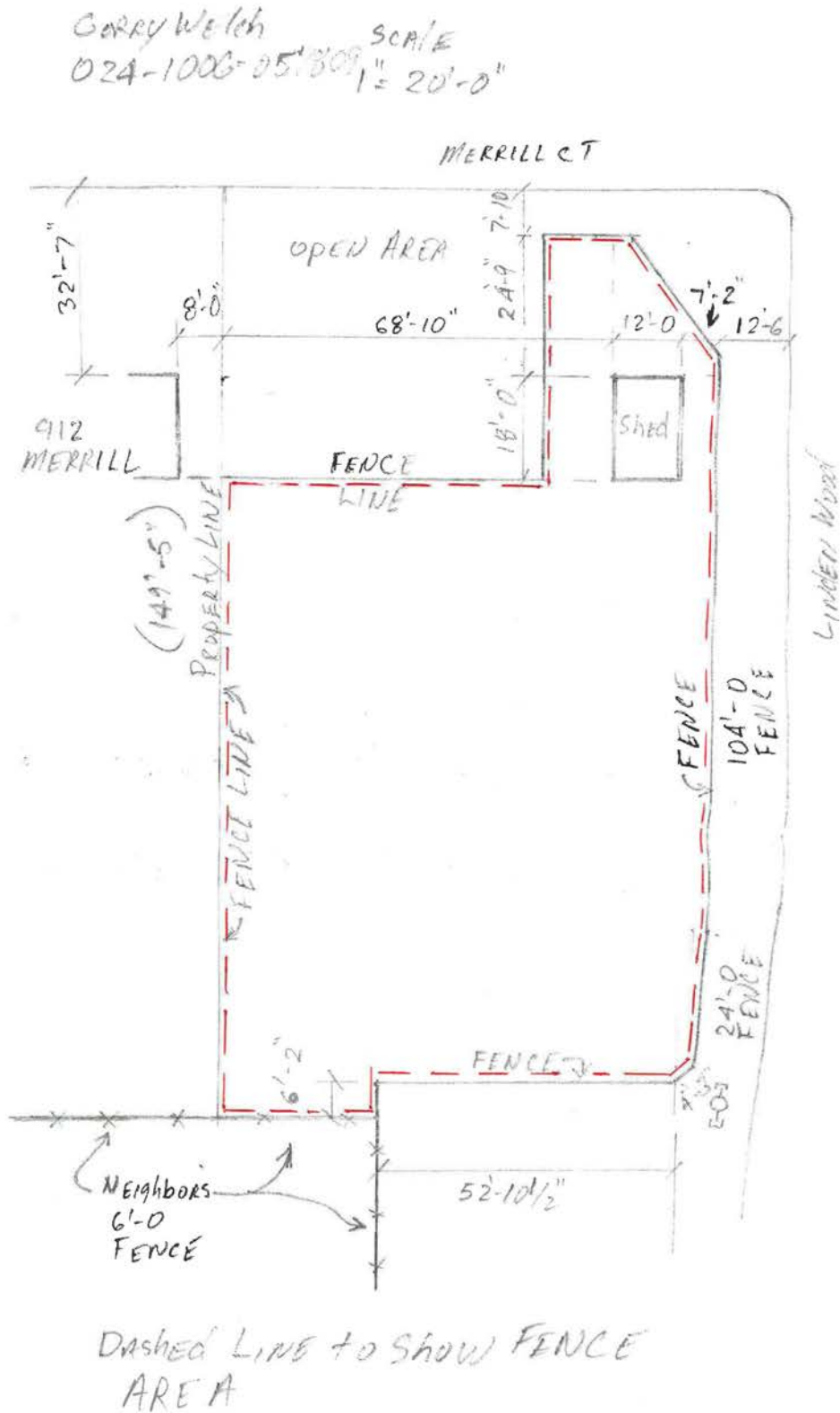
Site Location



Staff Recommendation

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

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

Allowing a shed and a fence of this height in an established corner yard could be injurious to the general welfare of community because it will be out of character and will not meet the intent of the ordinance.

(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 could be affected in an adverse manner if the variance was granted. Approving a fence that is located in a corner yard and encompassing a large area, would be out of character for the area and contrary to the intent of the ordinance, having a significant impact on surrounding properties.

The construction of the shed in the corner yard is also out of character for the area and contrary to the intent of the ordinance, and may have a significant impact on 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 not result in practical difficulties in the use of the property. The property can still be secured with a fence meeting the requirements of the Chapter. There are also no practical difficulty

(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 install a 3' solid fence or a 4' fence, 50% open or more, and relocate the shed to a code compliant area and still have full use of the property.

(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 fence and shed were built without the appropriate approval and permits from the building department. Had the applicant applied for building permits, they would have been made aware of the applicable regulations.

Analysis & Recommendation

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence or shed in this location. The proposed fence and shed are not consistent with the intent of the ordinance. There is nothing preventing both the fence and the shed being installed in conformance of the zoning ordinance.

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

Property Information

Location: Northeast corner of St. Louis and Wayne
Owner: UNITED CHURCH OF CHRIST ZION CHURCH

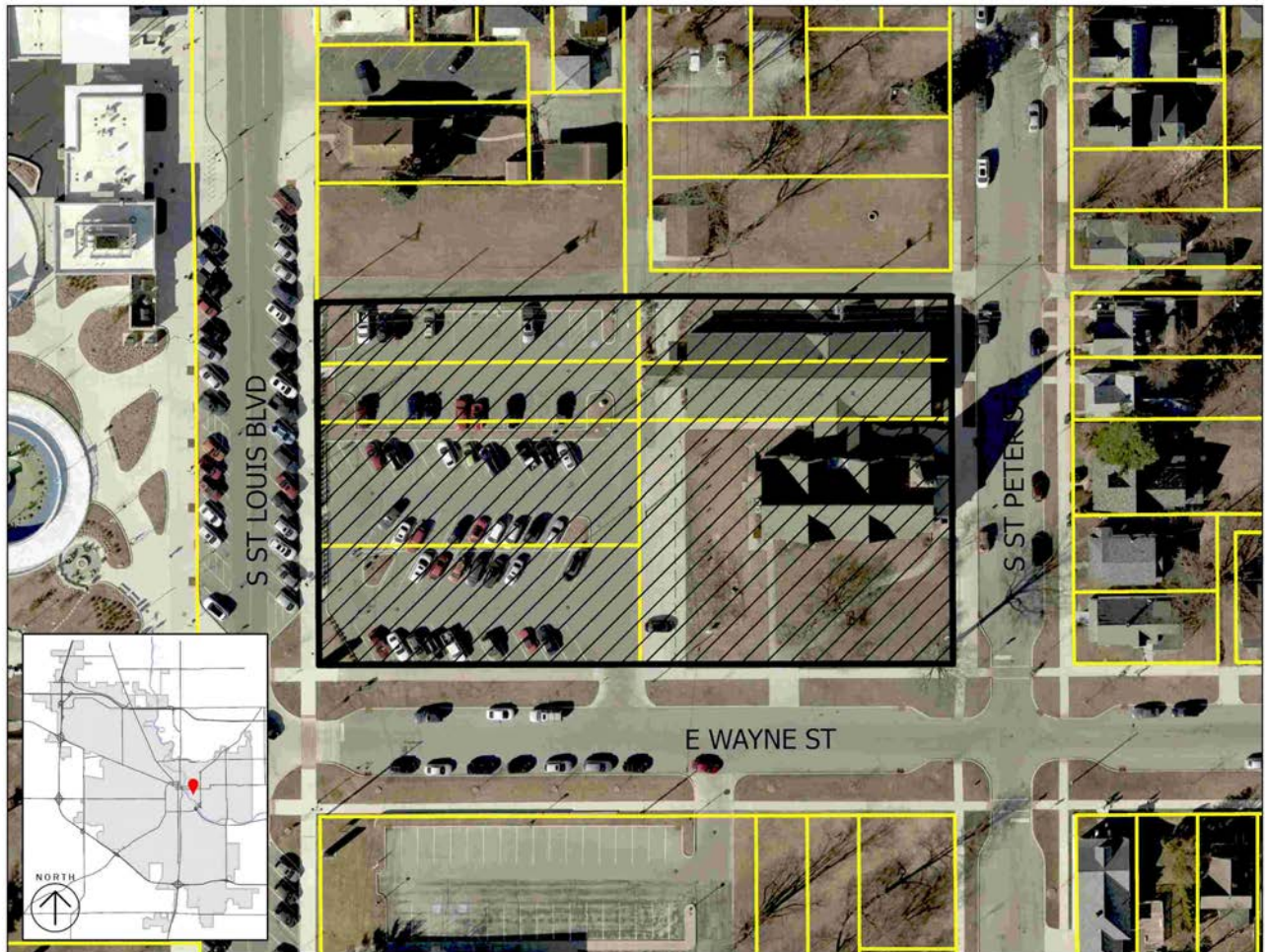
Project Summary

Modification of a legal non-conforming sign including replacement of a manual readerboard unit with an electronic messageboard unit.

Requested Action

Variance(s): 1) from the 32 sq.ft. maximum sign area to 88 sq.ft.
2) from the 8' maximum sign height to 12'-1"

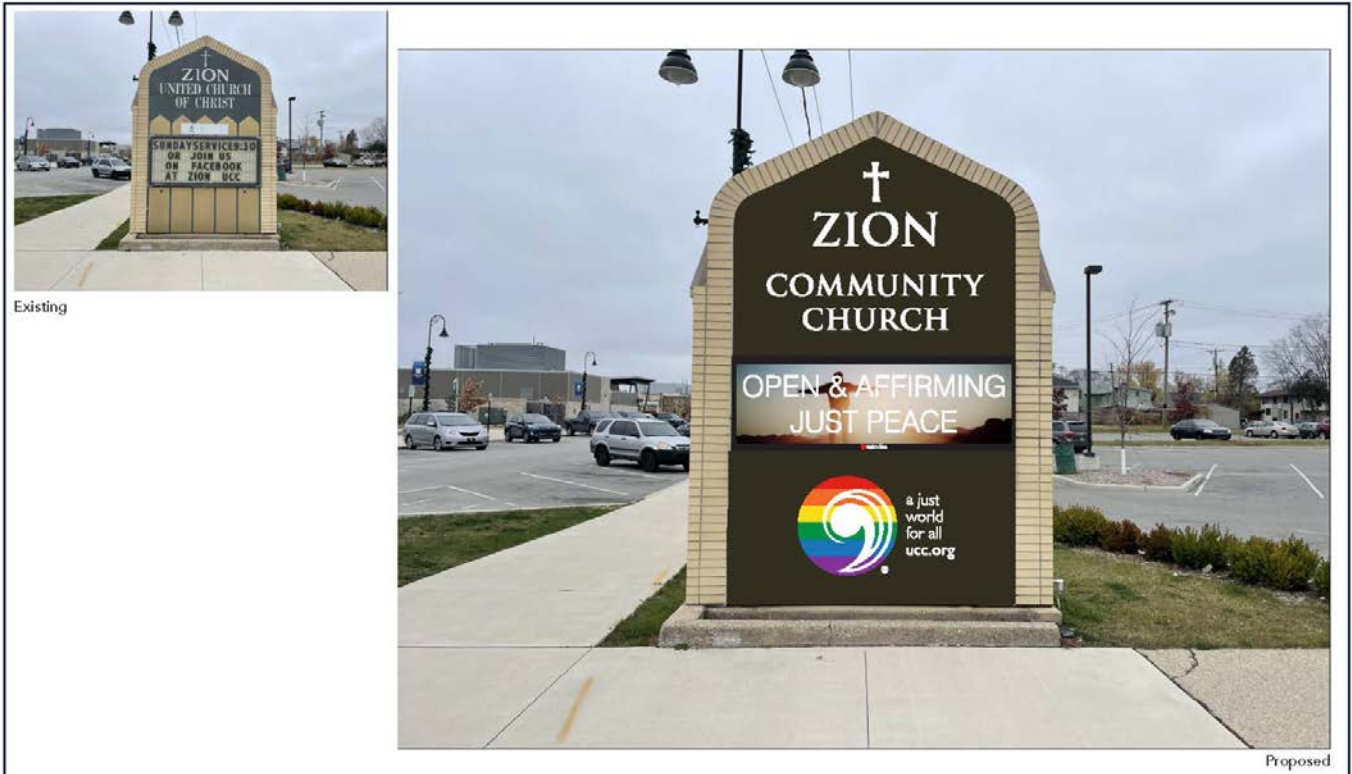
Site Location



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

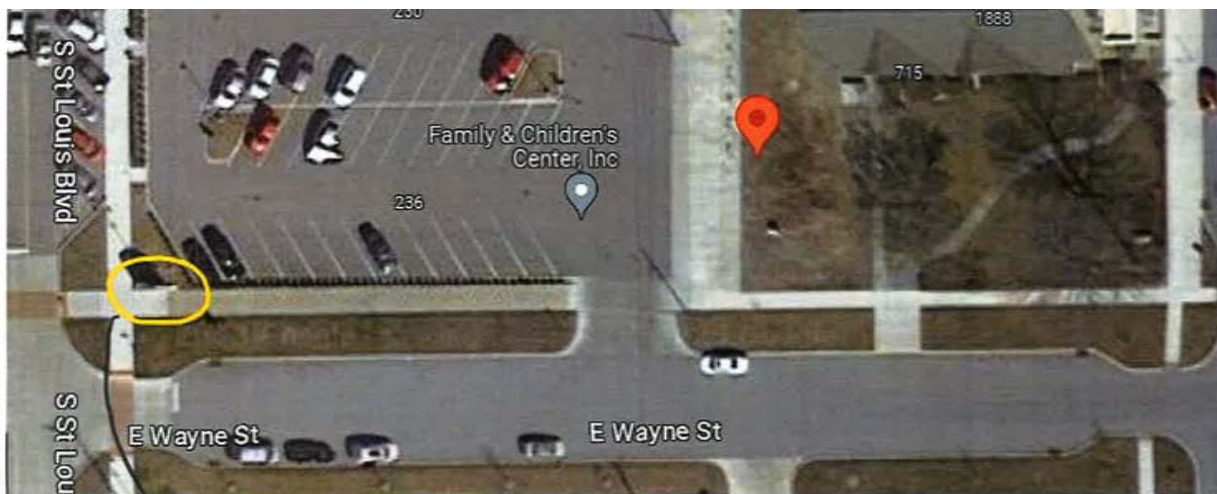


Existing

Proposed

- Reface top portion of sign cabinet with (2) new routed 1/8" aluminum sign faces painted MP20303 Dark Bronze Metallic, and backed w/ translucent white polycarbonate.
- Retrofit lighting to LED, (6) 84" tubes, (1) 60" tube, and (1) 30" tube.
- Changeable copy reader board will be removed and replaced with a Watchfire EMC: 2'0" x 7'0" viewing area, full color, 10mm resolution, 4G communication.
- (2) New overlaid .063 aluminum panels for bottom portion of sign, painted MP20303 Dark Bronze Metallic, with vinyl graphic logo/text applied.

<p>874.851.3821 (COMMERCIAL) 874.874.4888 (RESIDENTIAL) 874.874.2366 (FAX)</p>	<p>216 Lindomey E. Osceola, IN 46581</p> <p>usa@signcrafters.com usaew@signcrafters.com</p>	<p>Design Created For: Zion Community Church E. Wayne Street / St. Louis Street South Bend, IN</p>	<p><small>This drawing is property of US Signcrafters Inc and Signcrafters Inc and Signcrafters Inc. No reproduction or permission are permitted without the approval written consent of US Signcrafters Inc. An assumed value of this artwork and concepts provided is a \$4,000.00 fee to be charged for any release or use without consent. By signing this, your accuracy and approval is understood and accepted that it is correct, as depicted, quantities, sizes, colors and spacing are approved for production. The colors of the artwork are approximate and might not match the actual production colors.</small></p>	<p>Scale - 1:38 1 of 2 2/16/2023</p>
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SIGN LOCATION

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

Provided the sign operates within the regulations of Article 10 of the Zoning Ordinance, the requested variance should not be injurious to the public health, safety, or 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 sign has been in its current configuration since the early 1990's. The proposed variance should not have a significant impact on the area and should not adversely impact the use or value of the adjacent properties. The majority of the sign change, specifically the change to the portions above and below the reader board, is normal and routine maintenance. It is the replacement of the reader board cabinet that triggers the need for the variances.

(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 require the entire structure be removed and replaced, even though the majority of the work being done is considered normal routine and maintenance. The brick structure, which was developed in a character consistent with the building, provides the outer frame of the sign defining the general sign area. The removal of the manual changeable copy sign cabinet would not allow for that to be replaced without the variance, leaving a hole in the middle of the sign.

(4) The variance granted is the minimum necessary

The variance request would legalize the existing structure in a way that is the minimum necessary to allow for the changeable copy sign to be replaced and upgraded. The sign is composed of a brick framed structure, making it difficult to alter the overall structure of the sign. The vast majority of the sign change would be considered routine maintenance.

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

The sign, and its brick framed structure, was legally established under a previous zoning ordinance before electronic message center technology was developed.

Analysis & Recommendation

Analysis: The majority of the sign work was routine maintenance. The proposed variance will allow for a small portion of the sign not considered routine maintenance to be updated as well.

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: 3808 RAINBOW DR
Owner: NEIL G WARRELL AND JESSICA STUTTS-WARRELL

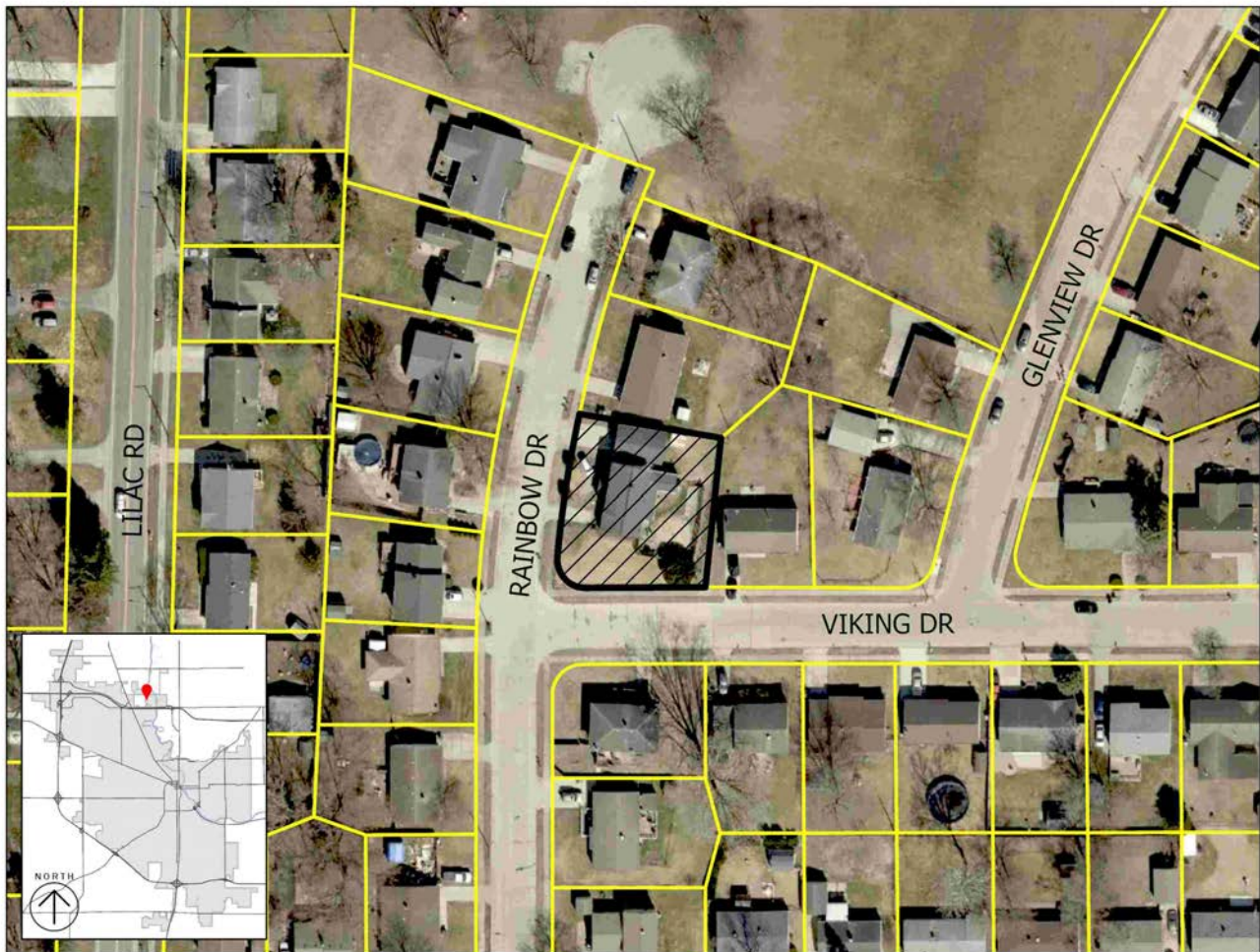
Project Summary

Build a back yard fence

Requested Action

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

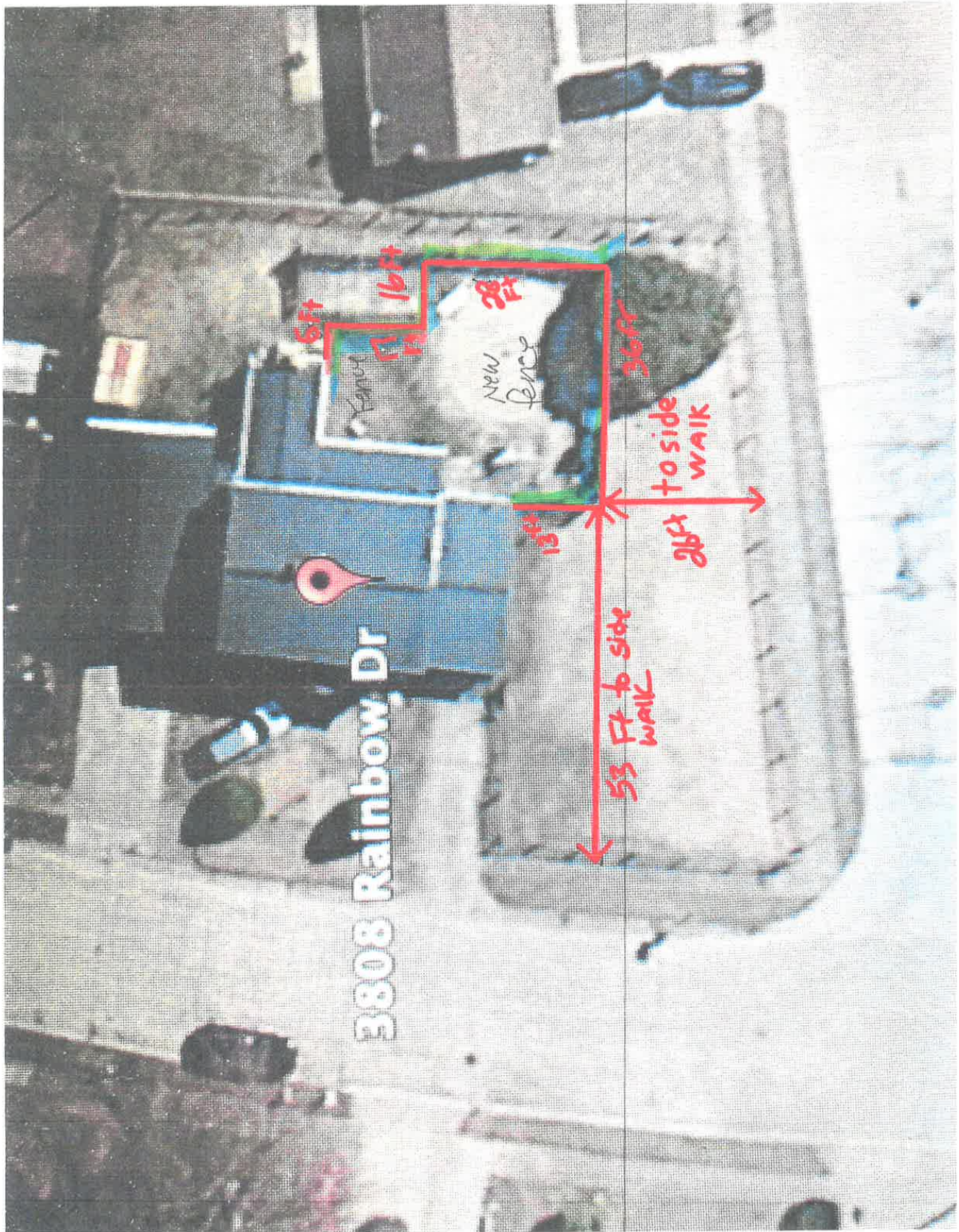
Site Location



Staff Recommendation

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

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 approval of the variance may not be injurious to the public health, safety, morals, and general welfare of the community if the site visibility at the intersection is preserved.

(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 fence is not proposed to go all the way to the sidewalk and is not out of character with the area.

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

Due to the steep grade in the rear yard, strict application of the terms of this Chapter would result in practical difficulties in the use of the property. The Petitioners are requesting to fence in a small portion of their yard with the fence extending 13' into the corner yard setback.

(4) The variance granted is the minimum necessary

The request is the minimum necessary to allow for a privacy fence on the property. The proposed location of approximately 24' from the property line along Vikiing Drive exceeds the 15' corner yard setback.

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

The hardship exists in the topography of the back yard which has a very steep incline making it impractical to erect a code compliant fence.

Analysis & Recommendation

Analysis: Due to the topography of the rear yard, approving a privacy fence in the established corner yard with a 24' setback from Viking Drive would allow the property owner adequate use of the lot while meeting the intent of the Ordinance.

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

Property Information

Location: 502 SAMPLE
Owner: BOYS & GIRLS CLUB OF ST JOSEPH COUNTY

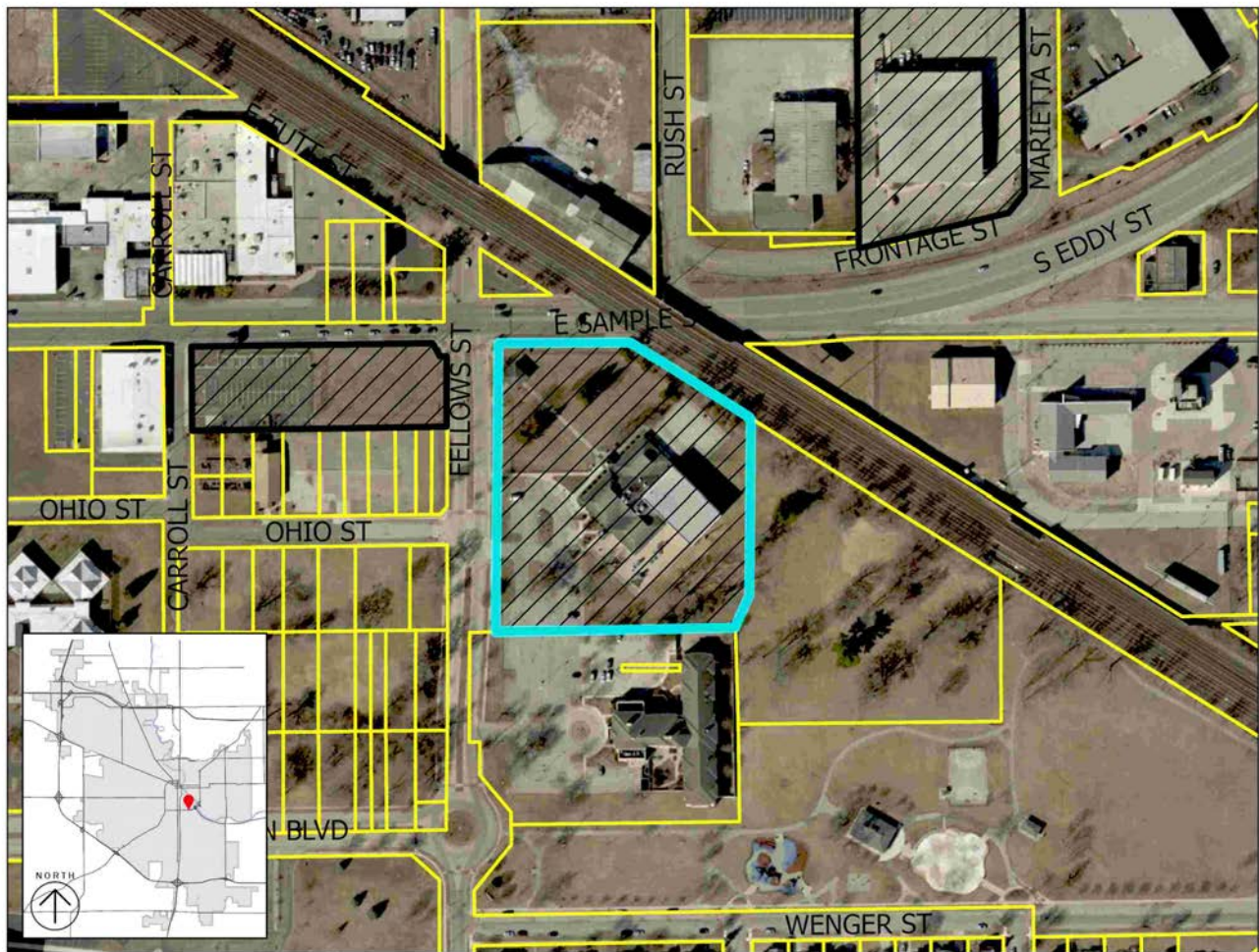
Project Summary

Installation of a sign that is 2' taller than current ordinance allows

Requested Action

Variance(s): 1) from the 8' total maximum sign height to 10'

Site Location

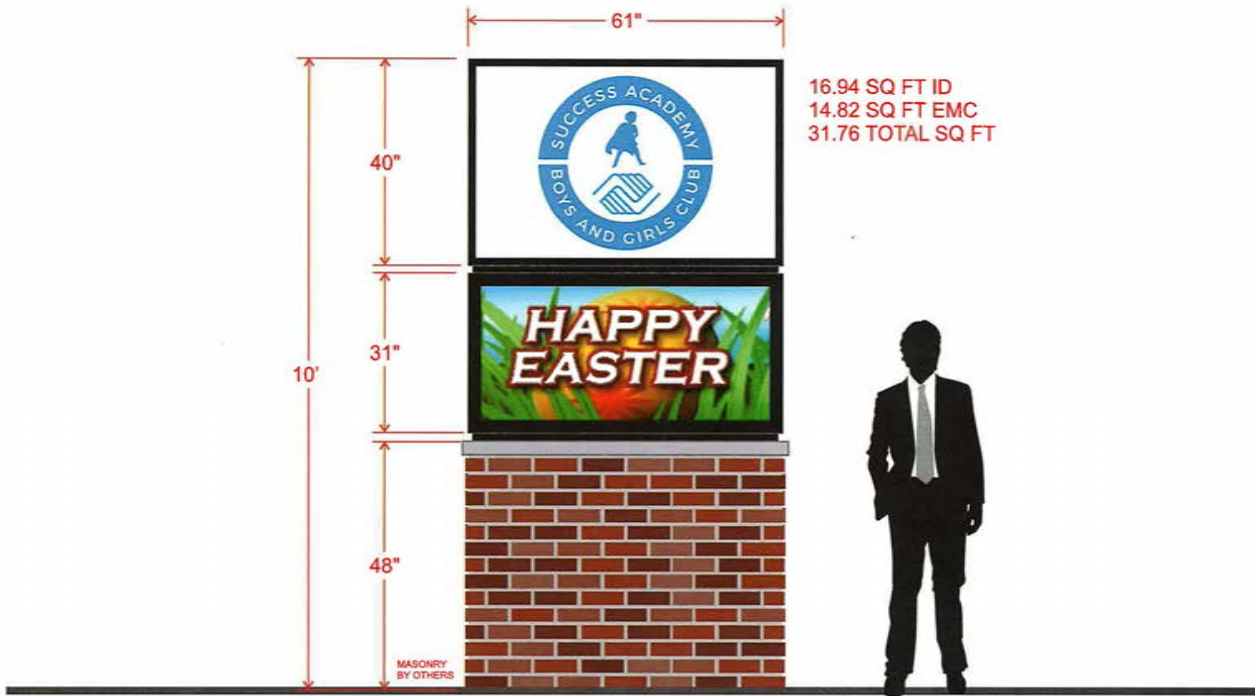


Staff Recommendation

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

Proposed Site Plan

SOUTH BEND



Vanadco Signs
10625 STATE RD. 10 - ARGOS, IN - 46501 | vanadco.com

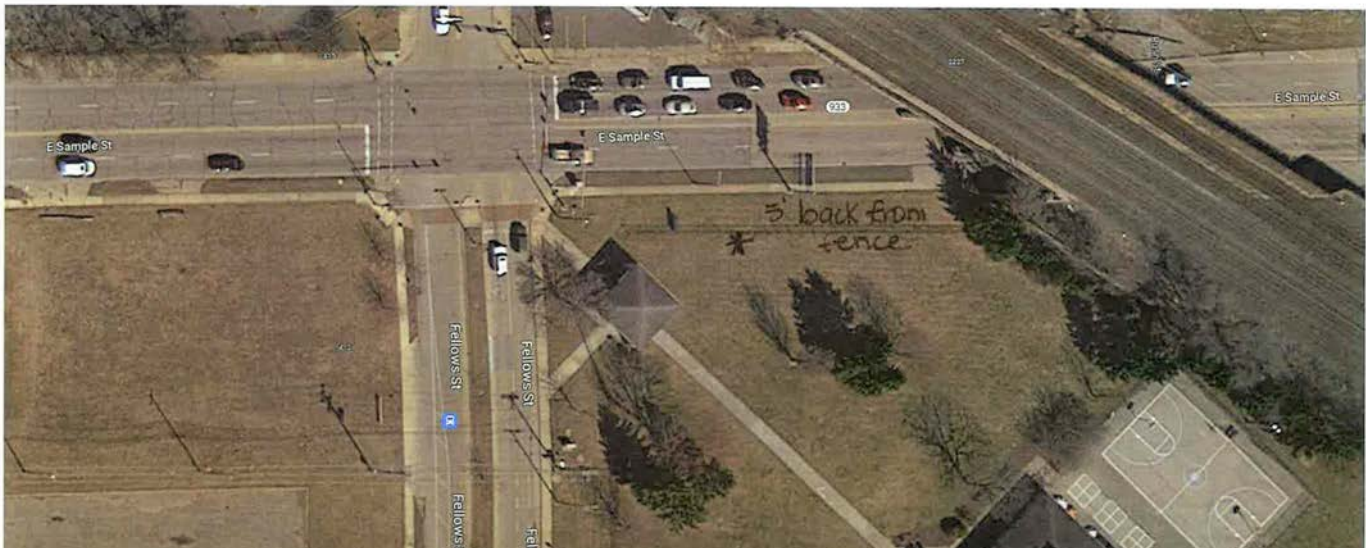
Internally Illuminated Monument Sign
Flat White Polycarbonate Faces with Translucent Vinyl Graphics
Daktronics Full Color EMC 15.85mm 72x144 Pixel Matrix

SCALE: 1/2"=1'
DATE: 02-23-23 rev. 07-06-23
FILE: Career Academy S Bend
72x144 B.cdr

All drawings/graphics/illustrations: ©2023, Vanadco Signs, Inc., All Rights Reserved.
Due to the limitations of the printing process, printed colors can vary from actual colors.

ARTWORK APPROVED BY:

APPROVAL DATE:



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

With the appropriate setback out of the sanitary and water easement, the sign should not be injurious to the general welfare of the community. While the proposed sign is slightly taller than what is allowed by the Ordinance, it is not out of character for the 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 property is located along a commercial and industrial corridor. The proposed sign should not adversely impact 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

Locating the sign in the notched area near the entrance pavilion at the corner of Sample and Fellows would place it in a location that could be obscured by traffic lights, electric poles, and a circuit box. The increase in height will allow the proposed new electronic message sign to be visible above the fence.

(4) The variance granted is the minimum necessary

The variance requested is the minimum necessary to address the hardship created by the City's 20' sanitary and water easement between the existing fence and the property line where the sign cannot be installed.

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

The 20' sanitary and water easement between the property line and the fence creates a hardship in locating the sign within that area. The additional 2' in height will be to the base and not the sign area.

Analysis & Recommendation

Analysis: The site is located along a busy corridor surrounded by industrial and commercial properties. The proposed variance is not out of character for the area and meets the general intent of the Ordinance.

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

Property Information

Location: 1509 CARROLL ST and 240 HANEY AVE
Owner: EFFIE GROVES

Project Summary

Build a fence along back property lines and next to the neighboring vacant lot.

Requested Action

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

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as requested, subject to a 15' setback from Haney Avenue property line.

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

With the proper setbacks, the proposed variance should not be injurious to the public health, safety, morals, 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

Like building setbacks, a proper setback of a fence (or limiting the height in an established corner yard), is designed to maintain an open line of sight along a street frontage. Allowing a solid structure, such as a privacy fence, that interrupts or blocks the established corner yard along a street can negatively impact the use and value of adjacent properties. It can also reduce the comfort and safety of pedestrians using the sidewalk. With adequate setbacks established, the proposed variance would allow use of the lot without causing the negative effects previously described.

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

Because of the location of the home as it relates to the corner of the property, strict application of the ordinance would limit the privacy fence to a very small portion of the lot creating some practical difficulties.

(4) The variance granted is the minimum necessary

The variance as requested, 8' from the property line along Haney Ave., is not the minimum necessary in order to allow for the use of the property. The staff suggests the privacy fence be setback a minimum of 15' from Haney Avenue in order to align with the required 15' minimum building setback for the property. The fence will also not encompass the entire lot, only an approximately 58' section of fence between the property at the corner and the vacant lot to the south.

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

The orientation and location of the home is what creates the need to extend the fence beyond the corner building line. The fence will replace an existing privacy fence that has deteriorated.

Analysis & Recommendation

Analysis: Due to the location of the existing home along with the adjacent lot, approving a section of privacy fence in the established corner yard subject to a 15' setback from Haney Avenue would allow the property owner adequate use of the lot while meeting the intent of the Ordinance.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as requested, subject to a 15' setback from Haney Avenue property line.

Property Information

Location: 1708 ADAMS ST
Owner: JAMES CHAMPER & SONDRAL CHAMPER

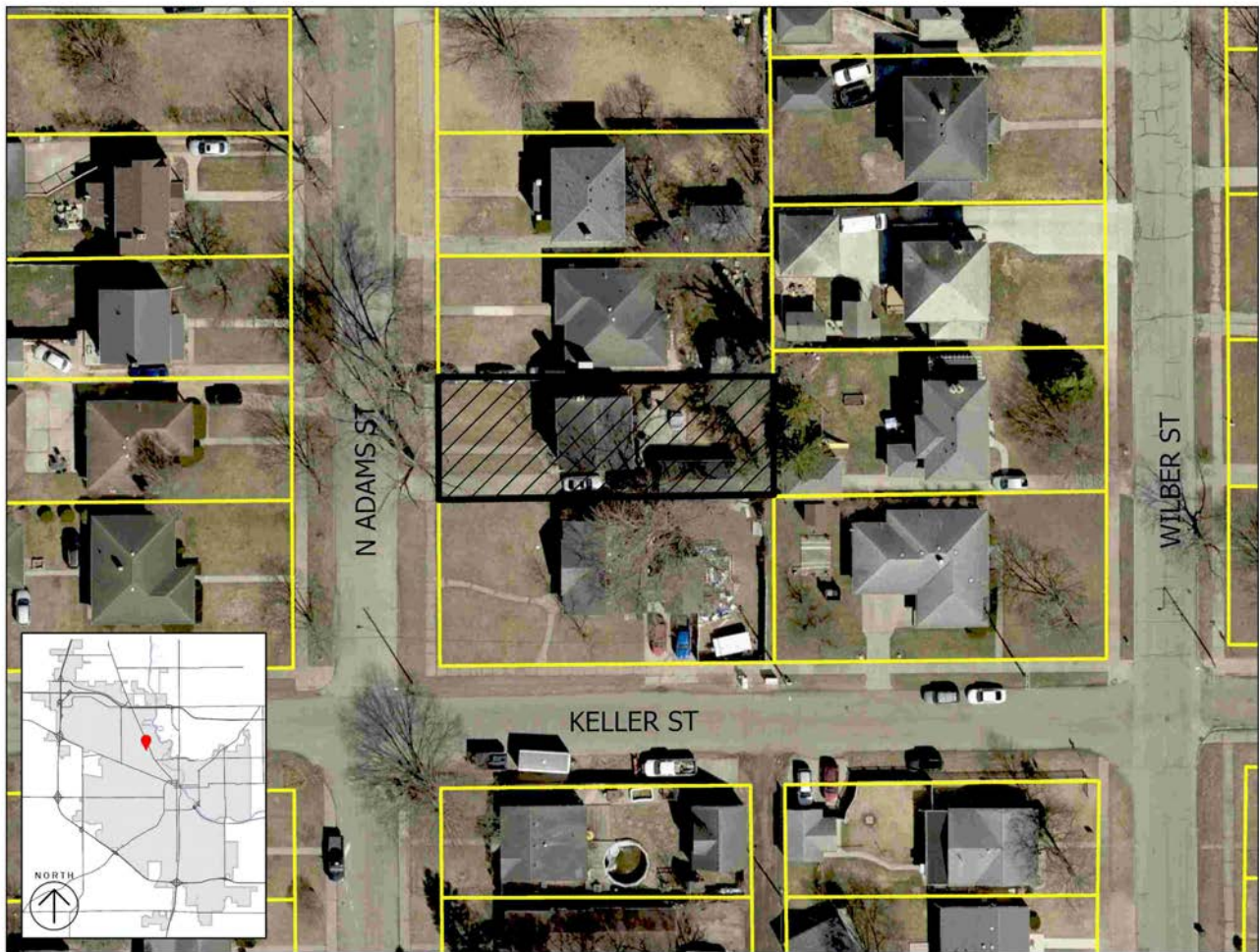
Project Summary

Allow a recently-built shed in the rear yard with a 0' setback.

Requested Action

Variance(s): 1) from the maximum 1 detached accessory structure to 2
2) from the 5' minimum rear yard setback to 0'

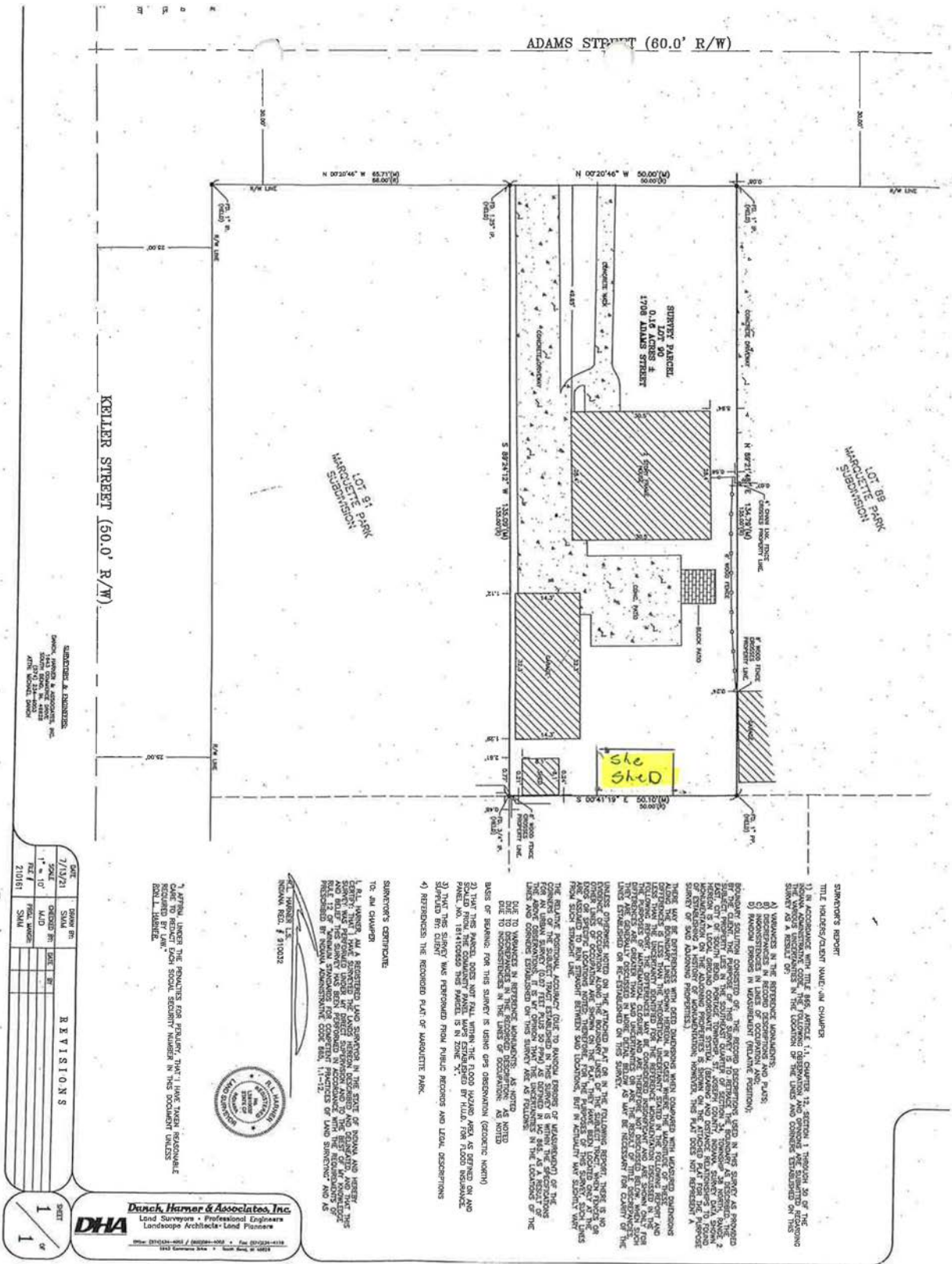
Site Location



Staff Recommendation

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

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 are out of character with the area, which may impact 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 proposed variances are out of character for this area, which could have an impact on the value of surrounding properties. Houses in this neighborhood only have one accessory structure that are located at the rear of their properties. The property owner already has a large accessory structure in the rear of the property as well as a 64 sqft shed (which does not require a building permit but still must have proper setbacks).

(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. The residential use is not impacted by the number of accessory structures.

(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 12' X 16' shed could be attached to the existing garage with no requirement for a variance. The total square footage of the accessory structures would be within what is permitted by the Ordinance.

(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 accessory structure was constructed on the property without the appropriate permits or approvals from the building department. Had the applicant applied for a building permit, they would have been made aware of the applicable regulations.

Analysis & Recommendation

Analysis: There are no practical difficulties for the petitioner that would necessitate 1) an additional accessory structure; and 2) a 0' rear yard setback for the accessory structure. The request is not consistent with the intent of the Ordinance.

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

Property Information

Location: 2400 HURON ST (519 S. Olive Street)
Owner: ST ADALBERTS PARISH

Project Summary

Build a fence around the property of the school, church, rectory, parish office and boiler room.

Requested Action

Variance(s): 1) from the 4' maximum fence height in the established front and corner yard to 6'

Site Location



Staff Recommendation

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

Proposed Site Plan

5/10/23, 10:38 AM
Google Maps



Google Maps

Imagery ©2023 CNES / Airbus, IndianaMap Framework Data, Maxar Technologies, Map data ©2023 50 ft

<https://www.google.com/maps/@41.6689035,-86.2843315,176m/data=!3m1!1e3>

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 this variance may not be injurious to the public health and safety of the public. However, approving variances without practical difficulties undermines the Zoning Ordinance and could have a negative impact on 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 area adjacent to the property may not be adversely affected if the variance is granted. However, granting this variance would be out of character for the area and contrary to the intent of the ordinance, having a significant impact on the surrounding neighborhood.

(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 limit the ability for the church and associated buildings to function at this location with a 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 code compliant fence option and still retain the desired security of the property.

(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 fence was constructed without the appropriate permits or approvals from the building department. Had the applicant applied for a building permit, they would have been made aware of the applicable regulations.

Analysis & Recommendation

Analysis: There are no practical difficulties or unique characteristics that support the requested variance. The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property. The property can still be secured with a shorter code compliant fence that does not prohibit security of the property. Aesthetic preference is not a practical difficulty.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board deny the variance as requested.

Property Information

Location: 2301 DUBAIL AVE
Owner: NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND

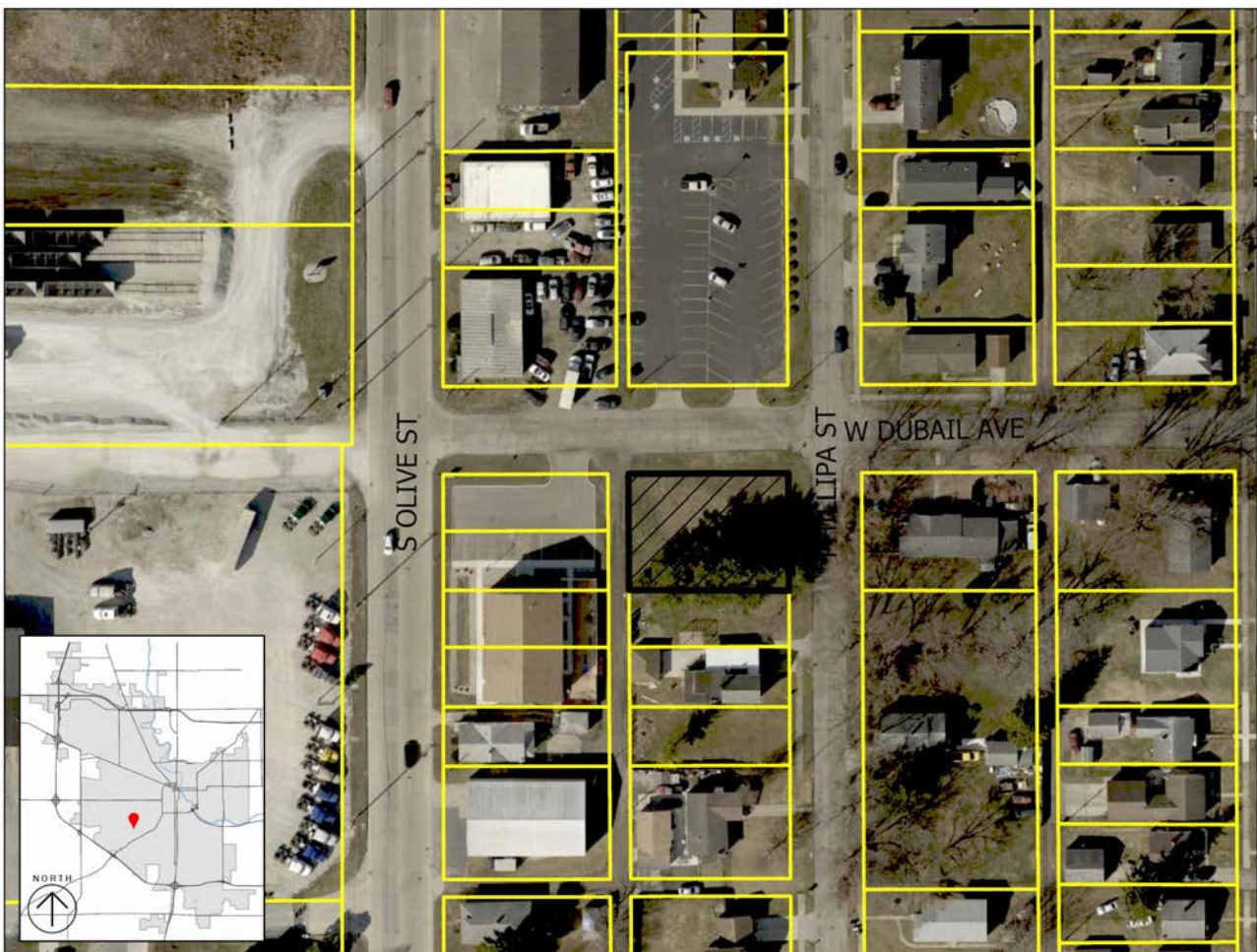
Project Summary

Put up a 6 foot fence on the property. The fence will be used to keep children safe as they play.

Requested Action

Variance(s): 1) to allow an accessory use and structure without a primary building

Site Location



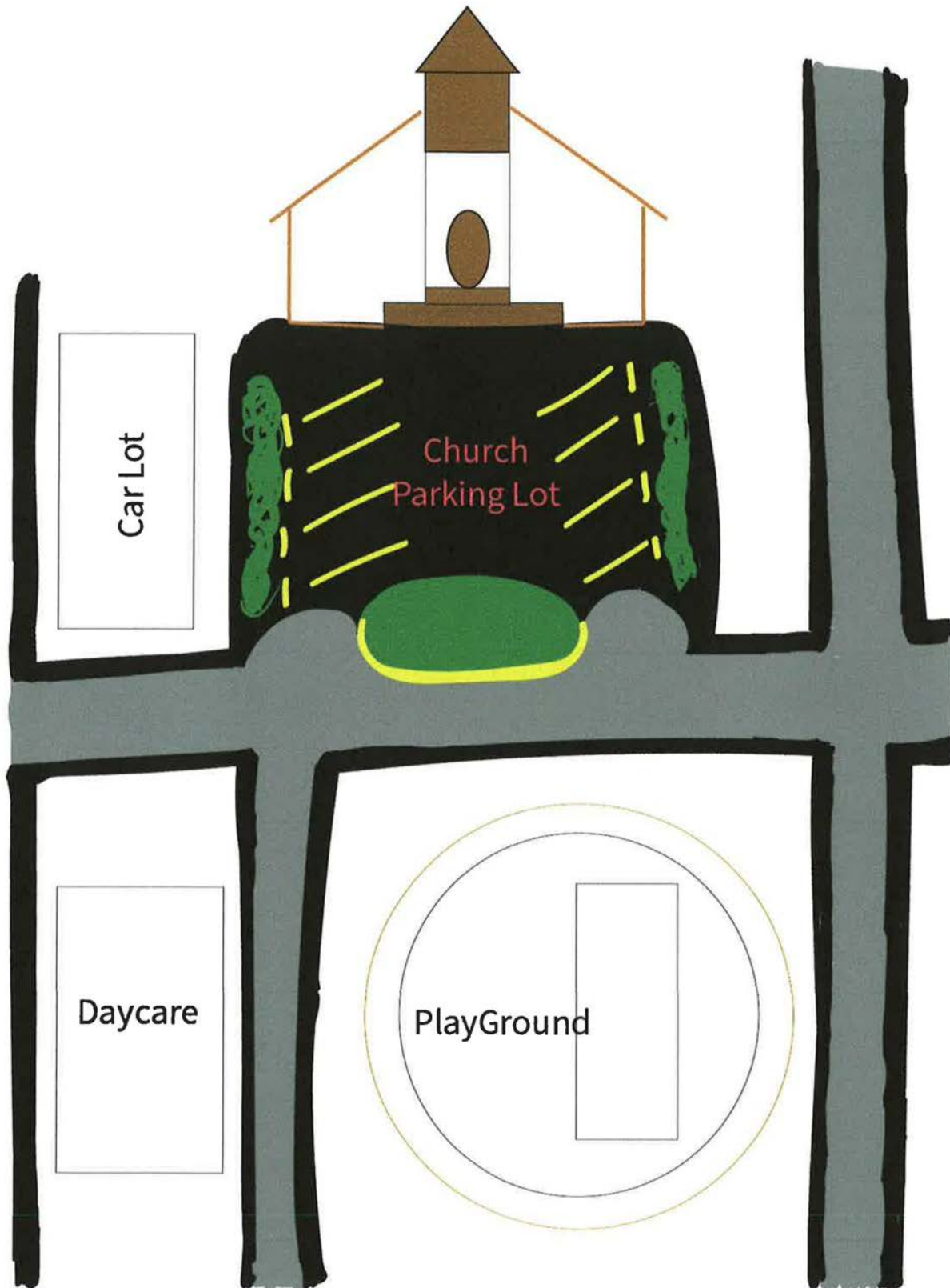
Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance to allow a 6' chain link fence around the playground area subject to a 10' setback from the Dubail Avenue and Philippa Street property lines

Proposed Site Plan

7/11/23, 5:13 PM

IMG_0002.png



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 fence should not be injurious to the public health, safety or general welfare of the community. The fence is more than 50% open and unique to the after-school child care setting.

(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 adversely affected. In addition to the child-care facility to the west across the alley, the petitioner also owns the church and parking lot north across Dubail Avenue. With the proper setbacks along Dubail and Philippa, the fence as presented should not be intrusive. Approving the variance will allow for the children to have a secure playground area at this location which should have a positive impact on the surrounding area.

(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 permit any structures on this lot because the primary building is located across the alley that separates the daycare center from the lot.

(4) The variance granted is the minimum necessary

A fence that meets the associated setbacks and minimum openness would be the minimum necessary to provide security for children using the playground associated with the daycare.

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

The variance would not correct a hardship caused by a former or current owner of the property. The property has been a vacant, unused lot and the fence around the proposed playground will provide a transition of uses between the residential uses to the east and industrial uses to the west of the daycare.

Analysis & Recommendation

Analysis: While the staff does not typically support a fence on a lot without a primary structure, the need to provide a secure environment for the future playground on the property not directly connected with the daycare creates a practical difficulty.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance to allow a 6' chain link fence around the playground area subject to a 10' setback from the Dubail Avenue and Philippa Street property lines

Property Information

Location: 425 MADISON
Owner: OAKLAWN PSYCHIATRIC CENTER INC

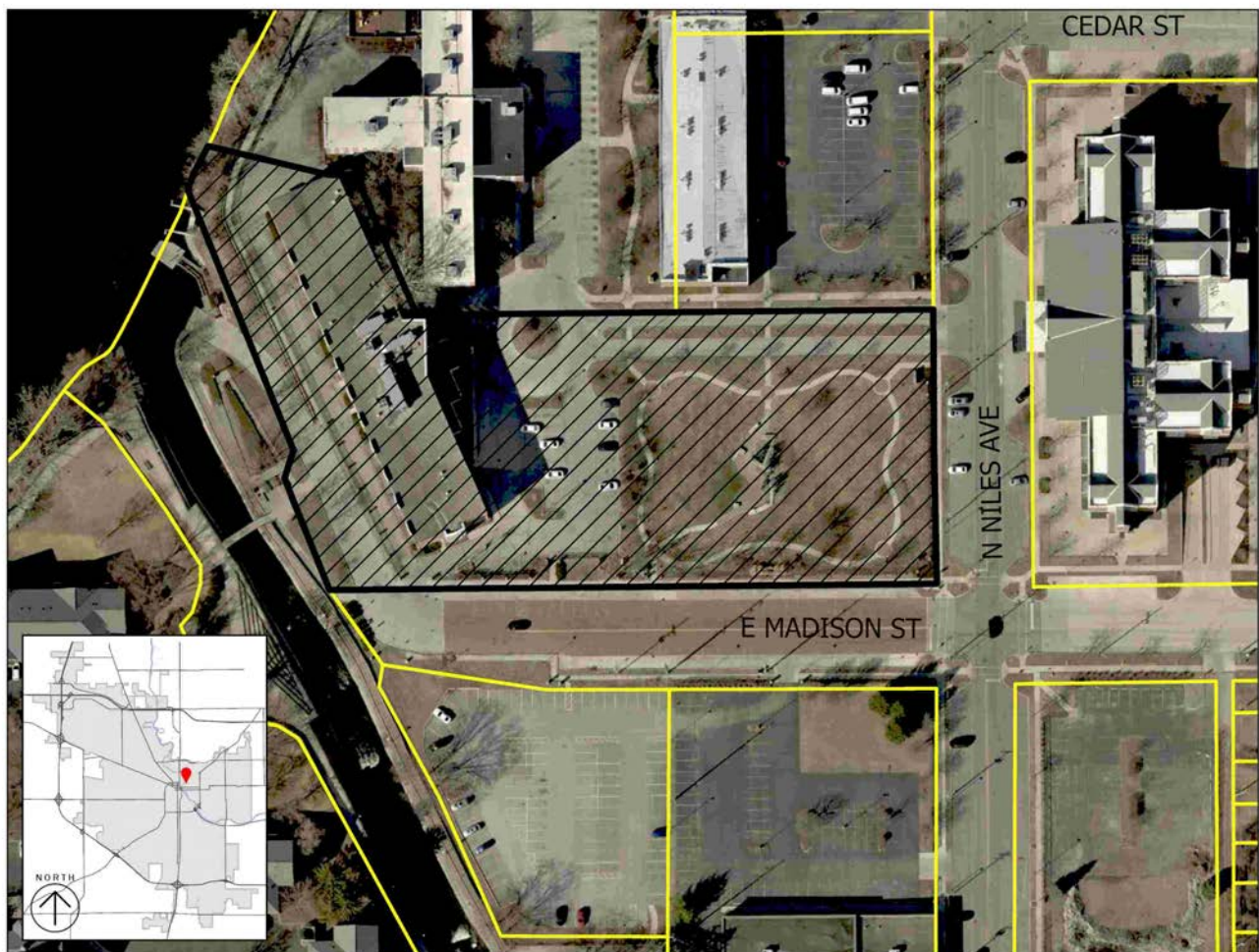
Project Summary

Add critical parking for the Oaklawn Health care facility located at Niles and Madison Ave.

Requested Action

Variance(s): 1) to allow parking in the established front and corner yard

Site Location



Staff Recommendation

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

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 requested variances should not impact the public health, safety and general welfare of the community. The parking lot is designed to meet all development standards for a parking lot.

(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 adversely impacted by the proposed parking lot location. The properties on the west side of Niles are designed with the buildings oriented toward the river. The result is the area available for parking is typically located between the building and the street. The properties immediately to the north and south have parking in the same general location.

(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 result in the inability for any additional parking to be located on the site. The building is located along the river, so parking behind the building is not feasible.

(4) The variance granted is the minimum necessary

The proposed parking lot incorporates a 5' parking setback along Madison to allow for the appropriate parking area screening. A larger setback is proposed along Niles allowing for onsite drainage and landscaping. The proposed parking areas are consistent with the location of parking areas on lots to the north and south of this site.

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

The unique hardship created by properties being adjacent to the river was not created by the current or previous owner.

Analysis & Recommendation

Analysis: The property has developed with the buildings adjacent to the street, leaving the only area for off-street parking in the established front and corner yard. With the proper screening, the impact of the variance can be minimized.

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

Property Information

Location: 601 JEFFERSON BLVD
Owner: SUR LLC DBA CHIMICHURRI RESTAURANT

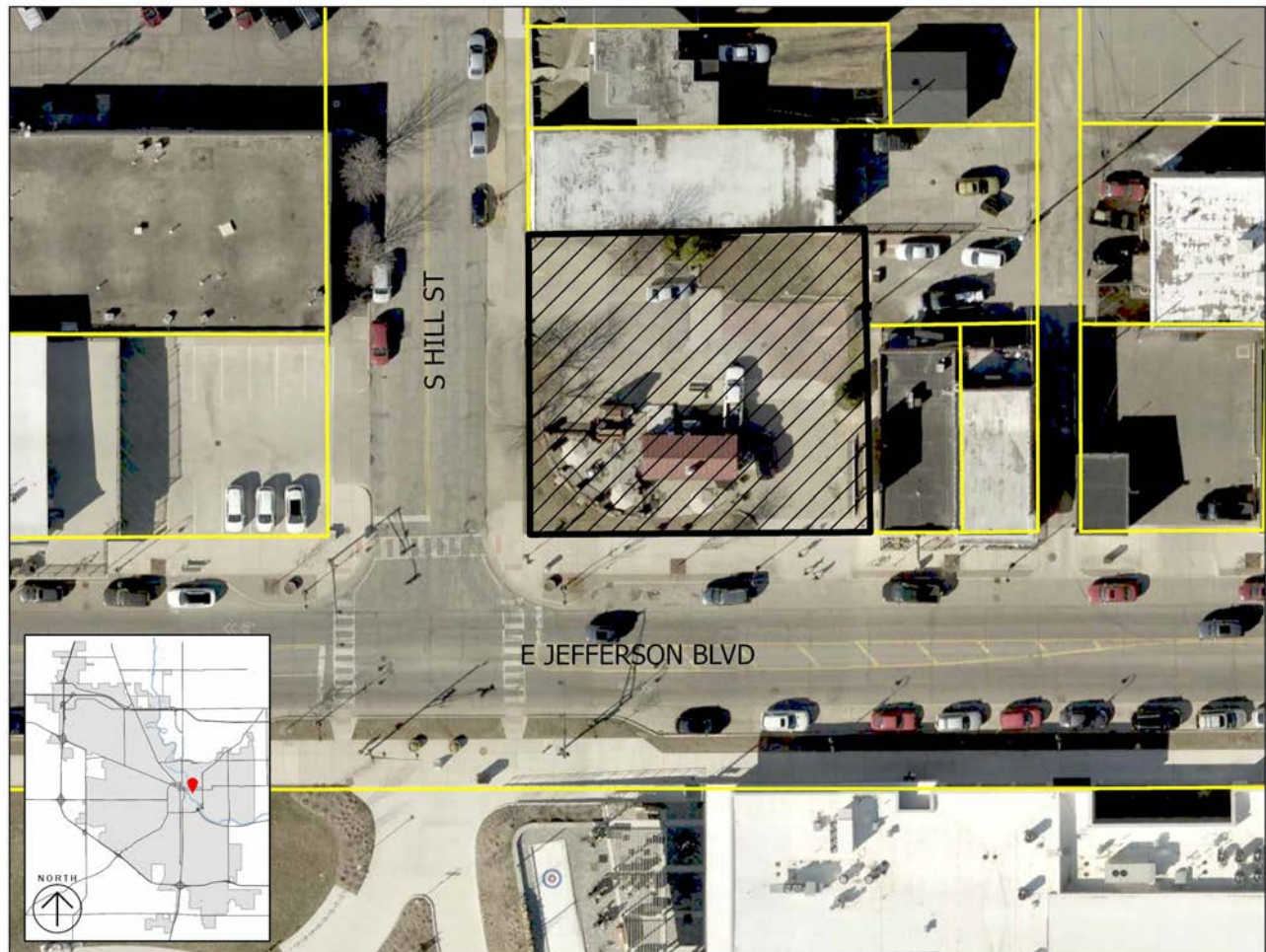
Project Summary

Chimichuri Restaurant is expanding its kitchen approximately 100 sq. ft., redesigning the bathroom for public access, and adding two patios. These enhancements aim to improve operational efficiency, accommodate growing demands, and provide an enjoyable di

Requested Action

Variance(s): 1) From the 10' maximum building setback to 38'
2) from the 60% minimum facade transparency to 35%

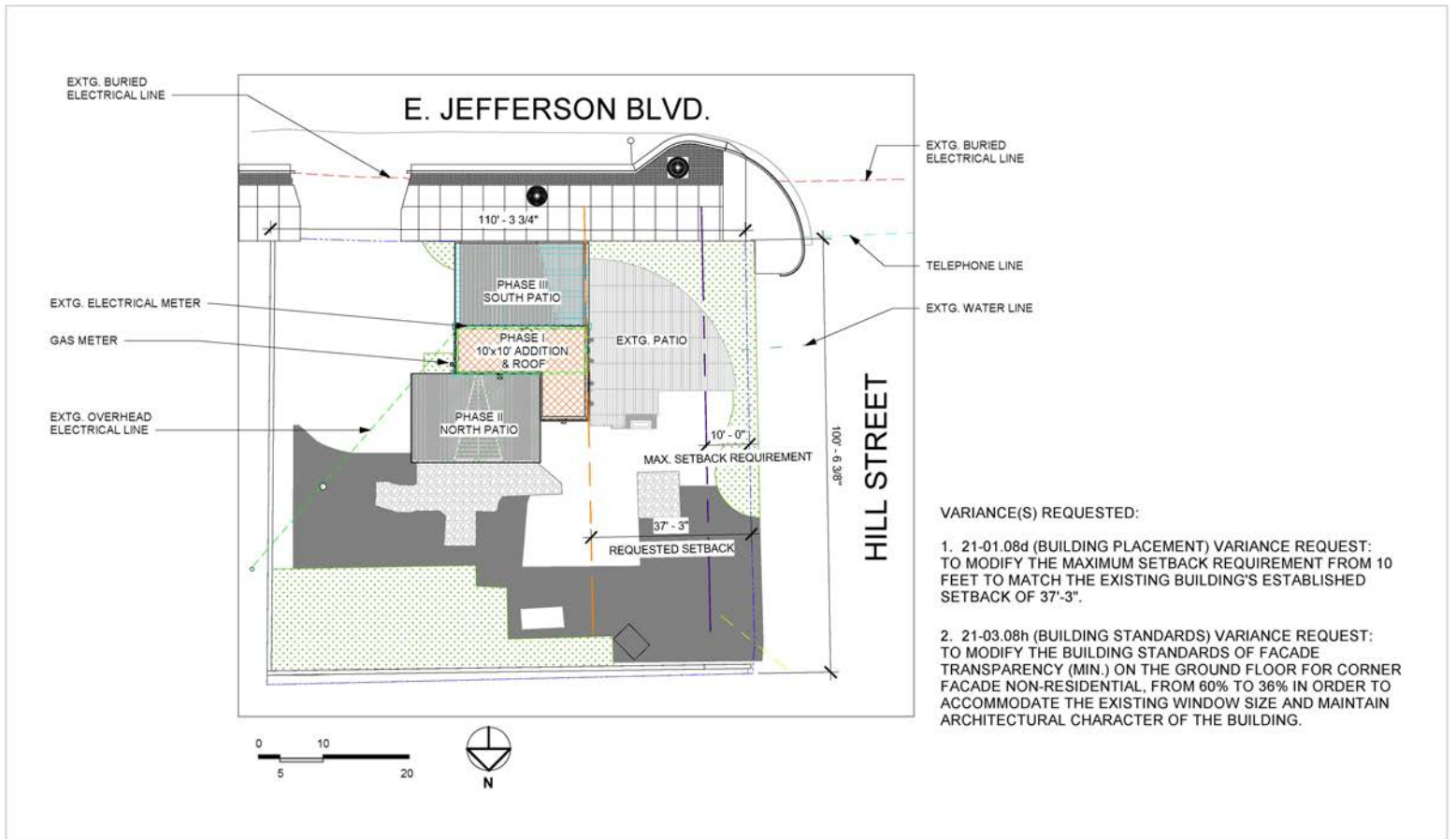
Site Location



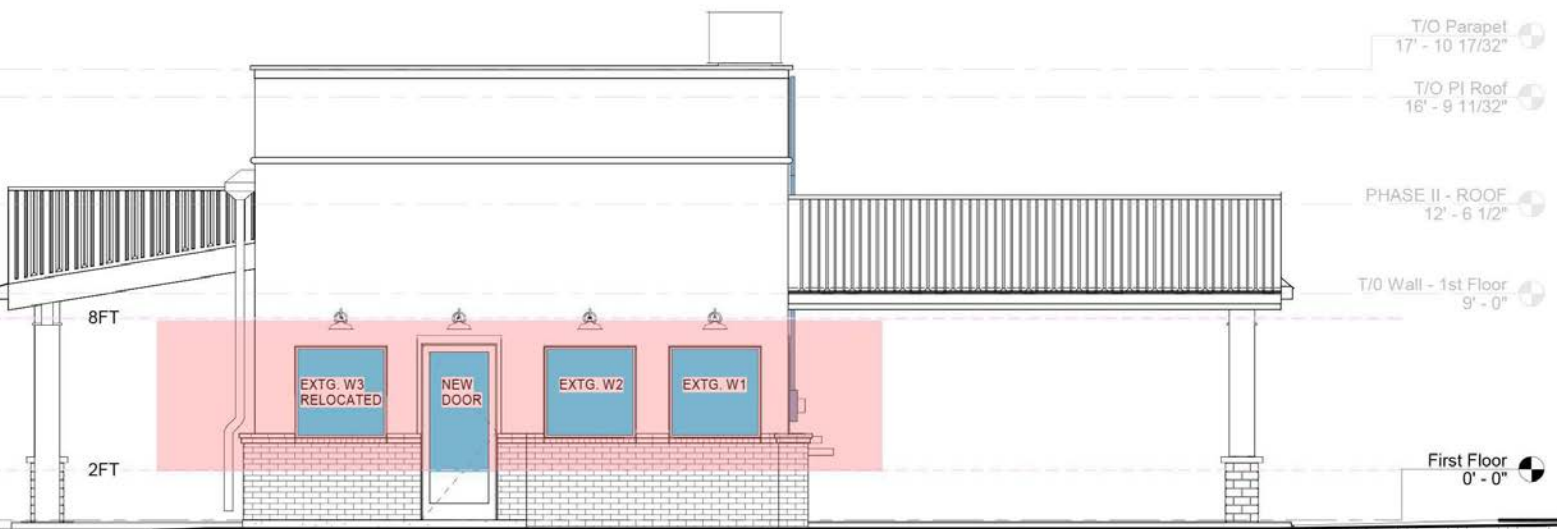
Staff Recommendation

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

Proposed Site Plan



 <p>MAKE ROOM ARCHITECTURE AND DESIGN LLC 401 E COLFAX AVE #180, SOUTH BEND, IN 46617 WEBSITE: http://mroomsb.com EMAIL: info@mroomsb.com PHONE: (574) 400-5408</p>	<p>PROPOSED SITE PLAN</p> <p>601 E. JEFFERSON BLVD. SOUTH BEND, IN 46617</p>	<p>PROJECT: (3) PHASE ADDITION(S) FOR: CHIMICHURRI</p> <p>DATE: JUNE 28TH, 2023</p>	<p>SCALE: 1" = 20'-0"</p>
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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 variances requested should not impact the public health, safety, or welfare of the community. The proposed addition is approximately 100 square feet and will have minimum impact on the property.

(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 site is located in a commercial area just east of downtown. The small addition to the building should not substantially impact the use or value of adjacent properties. The proposed variances will allow the addition to maintain the existing setback and facade articulation/transparency. The existing structure is a small commercial kitchen with only outdoor seating, offering a unique character that compliments the surround mix of commercial uses and public outdoor spaces.

(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 create a practical difficulty in designing the small addition in a way that would not impede the function of the space or potential future development. The proposed location of the addition is designed to minimize the impact on the existing outdoor seating and retain the service area in a location easily accessible from the rear of the building.

(4) The variance granted is the minimum necessary

The proposed variance is the minimum necessary to align the addition with the existing building and design it in a way that is consistent with the existing architecture. If a major renovation was planned, a variance from the minimum transparency may not be appropriate. However, this is a small addition for a service area where there will be no customer interaction. Its location behind the main outdoor seating area minimizes the impact of the setback and transparency requested.

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

The size and current location of the building results from the fact that the site used to contain a drive-through establishment. The requested variances complement the efforts to transform the property from an auto-oriented to pedestrian-oriented establishment.

Analysis & Recommendation

Analysis: The existing building is a small commercial kitchen with no indoor seating. The requested variance would allow for the minor expansion to add space for necessary equipment.

Its location behind the main outdoor seating area minimizes the impact of the setback and transparency requested.

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

Property Information

Location: 305 MADISON ST
Owner: CAREER ACADEMY OF SOUTH BEND INC

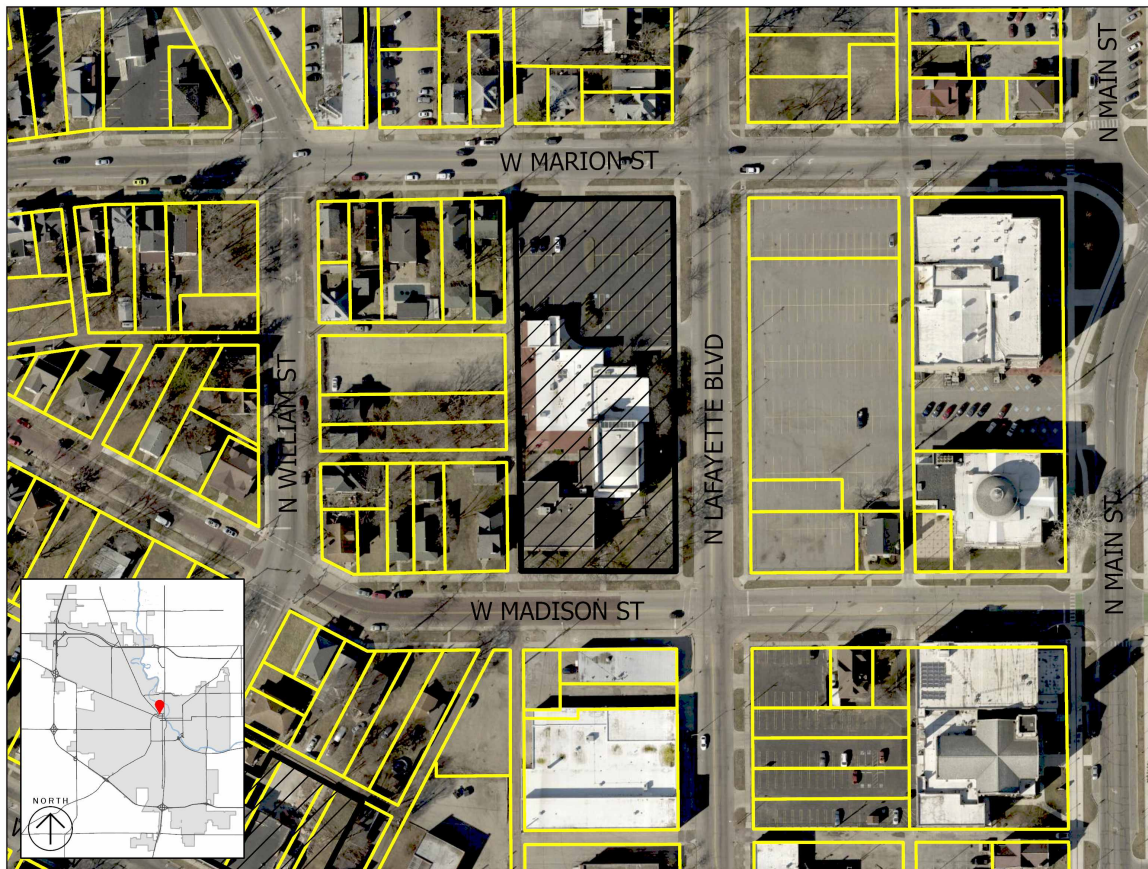
Project Summary

A 33,500 sq. ft. renovation of the previously under-utilized Temple Beth-El facility, as well as a 6,850 sq. ft. addition.

Requested Action

Variance(s): 1) to allow a curb cut where alley access is available; 2) to allow an accessory structure in the established front or corner yard; 3) from the 12' maximum front and corner setback to 41' on Lafayette, 38' on Madison, and 169' on Marion; 4) from the 20% minimum ground floor transparency to 0% on the south elevation; 5) to allow loading in the established corner yard; 6) to allow loading and unloading activity to encroach in the public right-of-way; 7) to allow trucks to back from or into a public street; 8) from the maximum 32' vertical articulation on the street facing façade to none

Site Location



Recommendation

Based on the information provided prior to the public hearing, approval of the variances as presented is recommended.

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 not be injurious to the public health, safety and general welfare of the community. Of the variances requested numbers 3, 4, and 8 relate to the design of the new portions of the building. These variances will allow for the blending of multiple eras of building additions to work together architecturally.

Variances 1, 2, 5, 6, and 7 are necessary for the day to day functionality of the building as well as to create a secondary secured delivery area that is isolated from the school. The use of the loading area for deliveries and trash collection will be limited to a few times per week.

(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 small new additions will be in keeping with the existing building design and the new high school will maintain its civic use. For variance 4, the additional screening as proposed for the southern elevation is intended to use similar building materials and color effectively blocking ground floor views of the building. This will negate the need for transparency for the lower portion of this façade.

(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 site is zoned NC which is designed for ground floor retail. The civic nature of the previous and proposed use within the current building footprint are not compatible with the NC district standards.

The existing building layout drives the cafeteria location and the associated new kitchen addition to the south east corner. Deliveries and trash removal would then be made at that location requiring the dumpster enclosure. The kitchen equipment and freezers preclude more transparency for the addition.

(4) The variance granted is the minimum necessary

The requested variances are the minimum necessary to align the additions with the existing building and design it in a way that is consistent with its “International Style” of architecture. The variances would allow the for the practical change of use from a synagogue to a highschool in a building that has been developed in a series of additions over time. Compared to the overall footprint these are small additions that provide the necessary service areas needed for the high school.

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

The property is zoned NC given its location as an interface between downtown and the Near Westside neighborhood. The size and current location of the building results from the fact that the site was previously used as a synagogue. The requested variances complement the efforts to transform the property from one civic use to a new civic use.

Analysis & Recommendation

Analysis: This project is essentially a building retrofit with minor additions. The requested variances would allow for the change in civic use.

Recommendation: Based on the information provided prior to the public hearing, approval of the variances as presented is recommended.

Property Information

Location: 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY
Owner: SALAMEH RAMADAN AND TAMI-LYN

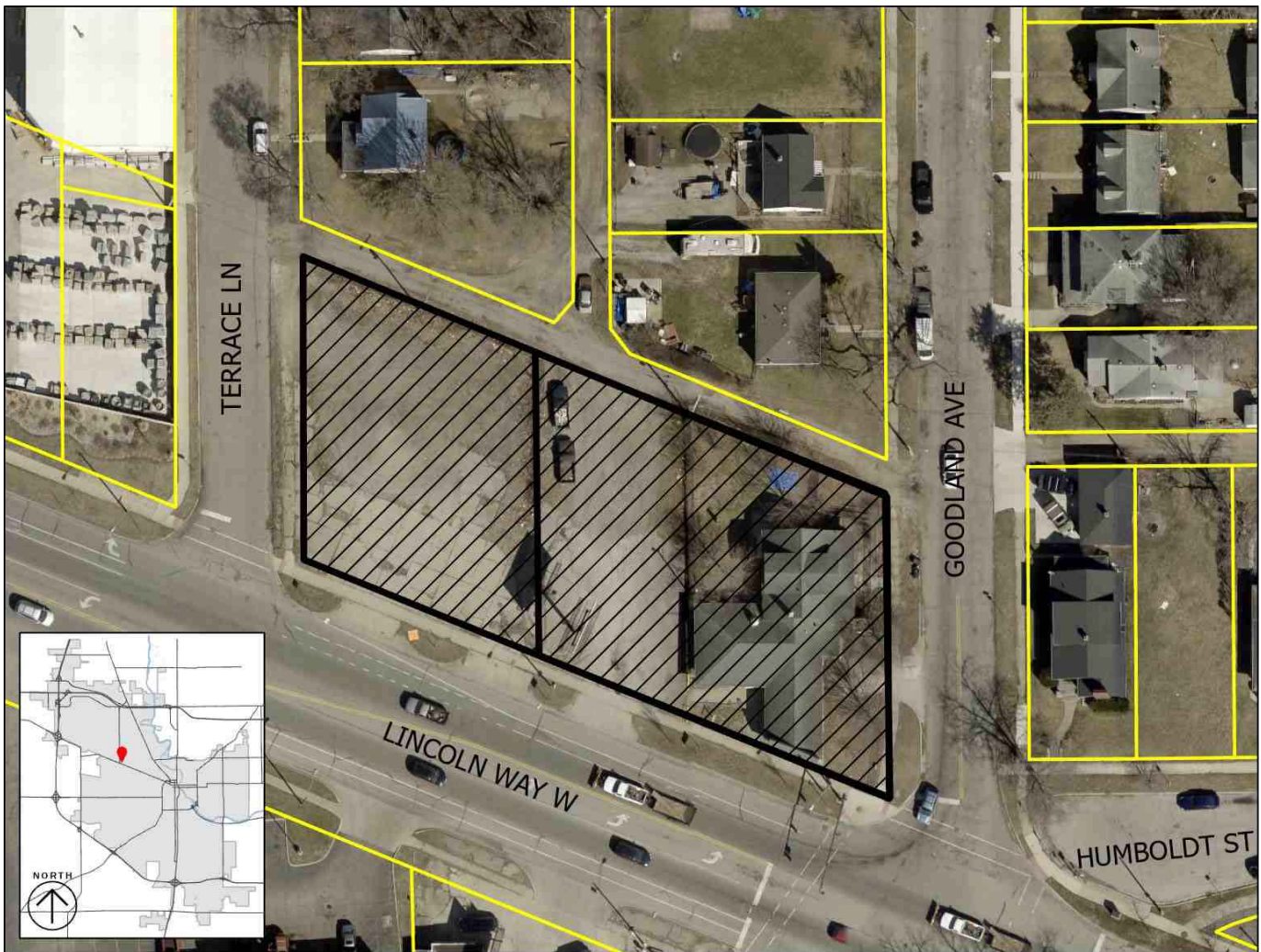
Project Summary

Have a U-haul rental lot. Use the Vibrant Places grant to assist with project.

Requested Action

Special Exception: Vehicle Sales or Rental

Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the Board send the petition 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, or general welfare of the community. The site is located along a commercial corridor. With proper buffering, the use is appropriate to the area.

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

With proper landscaping and buffering, the proposed use should not adversely impact the use or value of the adjacent properties. The property will be brought up to the current development standards for the use and district.

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

While auto-related uses are often not compatible with the NC Neighborhood Center District, this area is a heavily traveled commercial corridor. This property is in close proximity to properties zoned C Commercial and I Industrial.

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

The West Side Main Streets Plan (2015), an amendment to the Comprehensive Plan, encourages restoration of the historic walkable development pattern along Lincolnway West. This site, located at the Bendix Node, changes from urban to suburban and is less walkable due to the heavy traffic, as well as the proximity to the commercial and industrial traffic.

Analysis & Recommendation

Analysis: The proposed use as a vehicle rental facility is compatible with the surrounding area. The site is in close proximity to the Bendix node which is occupied by commercial and industrial uses. The site will be brought up to the current standards which will improve traffic safety, landscaping, and other site conditions.

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

Property Information

Location: 1044 LINCOLNWAY
Owner: RONALD E KOEHLER

Project Summary

Request a special exception to allow for the use of a Group Residence.

Requested Action

Special Exception: a Group Residence

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 subject to a limit of one person per bedroom.

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 or general welfare of the community. A group residence aligns with the residential character of the immediate surrounding properties. The property is located on a mixed use cor

(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. The property will still function as a residential dwelling unit.

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

This group residence will be consistent with the character of the district and neighborhood in both use and style of construction. Lincolnway West is a mixed use corridor and the current structure is large residential building suitable for multiple indivi

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

The petition is consistent with the City Plan, South Bend Comprehensive Plan (2006) Objective H1.1: Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities.

Analysis & Recommendation

Analysis: Lincolnway West has a mix of commercial and industrial uses of varying intensity along the surrounding stretch. The property is currently zoned for multifamily use which would allow for an apartment complex. The dwelling is consistent with the character of the district in the housing style.

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 subject to a limit of one person per bedroom.