

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, October 2, 2023 - 4:00 p.m.
County-City Building
Fourth-Floor Council Chambers
www.tinyurl.com/sbbza

PUBLIC HEARING:

- 1. 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
Request to Table
- 2. Location:** 2116 HAMILTON ST BZA#0223-23
Owner: ERIN REAL ESTATE INC
Requested Action:
 Variance(s):
 1) from the 3' maximum fence height in an established corner yard to 6'
Zoning: U1 Urban Neighborhood 1
- 3. Location:** 1637 TAYLOR ST BZA#0224-23
Owner: OLIVA CASTANEDA
Requested Action:
 Variance(s):
 1) from the 3' maximum fence height in an established front/corner yard to 6'
Zoning: U1 Urban Neighborhood 1
- 4. Location:** 613 NAPOLEON ST BZA#0227-23
Owner: THOMAS & GABRIELLA BELT HW
Requested Action:
 Variance(s):
 1) from the required 5' side yard setbacks to 4' for both side yards
Zoning: U1 Urban Neighborhood 1
Request to Table
- 5. Location:** 1132 PORTAGE AVE BZA#0225-23
Owner: SHARI SELLERS
Requested Action:
 Special Exception: 2 unit dwelling
Zoning: U1 Urban Neighborhood 1

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

6. **Location:** 1128 PORTAGE AVE BZA#0226-23
Owner: SHARI SELLERS
Requested Action:
 Special Exception: 2 unit dwelling
Zoning: U1 Urban Neighborhood 1
7. **Location:** 110 MAIN BZA#0228-23
Owner: TEACHERS CREDIT UNION
Requested Action:
 Special Exception: a free standing sign in a Downtown zoning district
Zoning: DT Downtown

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact
2. Minutes
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: 2116 HAMILTON ST
Owner: ERIN REAL ESTATE INC

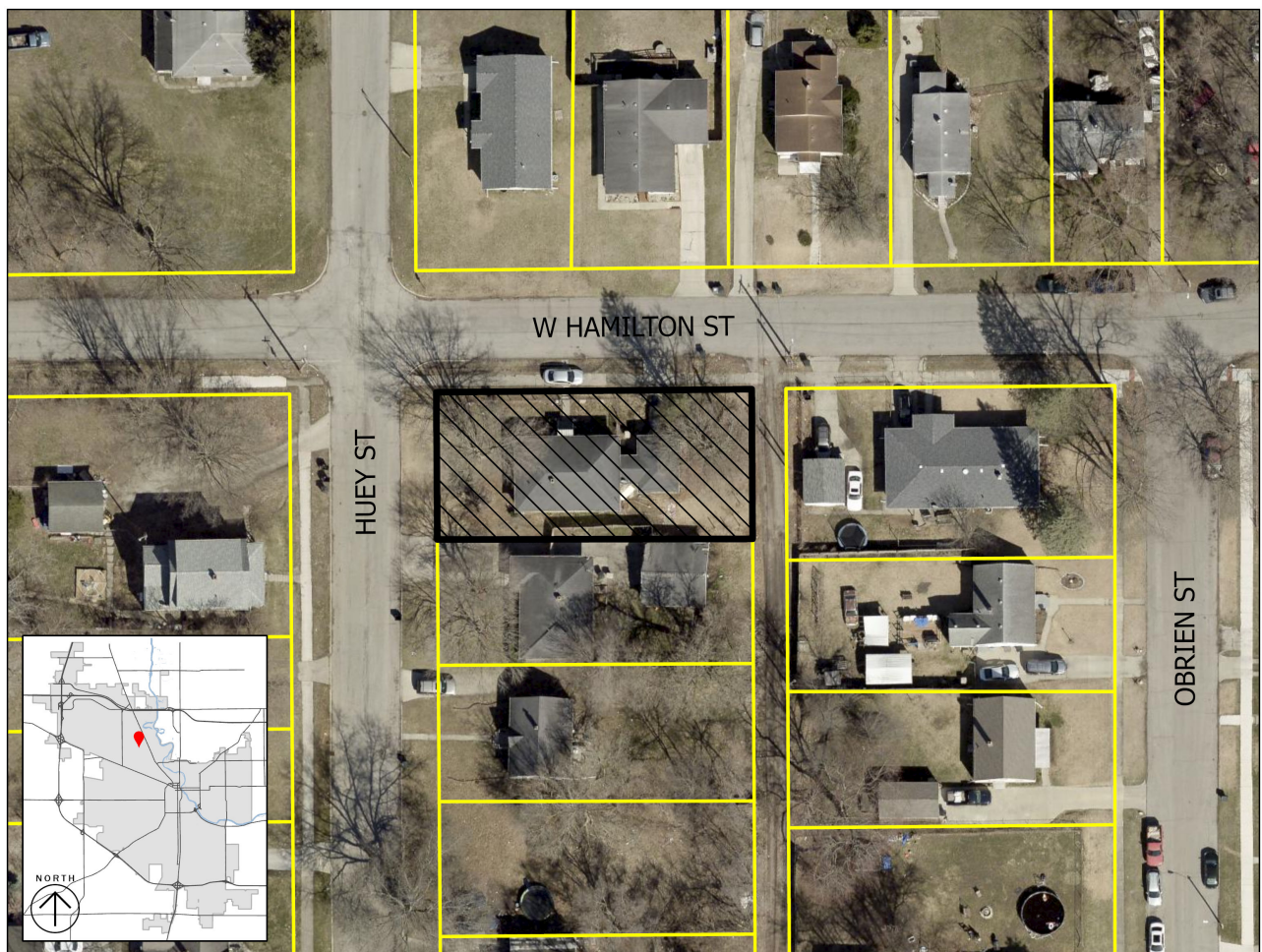
Project Summary

Installation of a privacy fence in the front and corner yards.

Requested Action

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

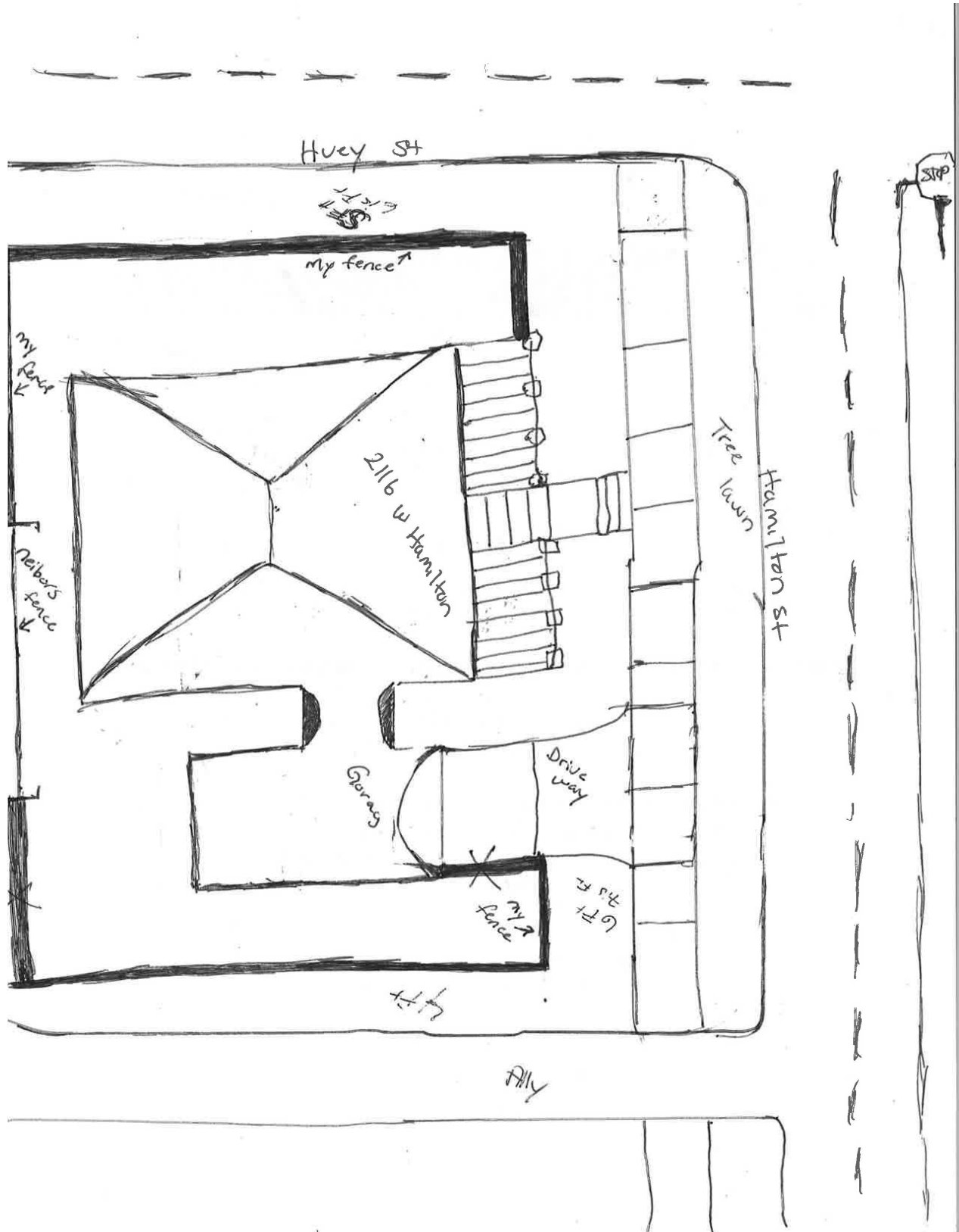
Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the 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 fence of this height in an established corner yard could be injurious to the general welfare of community because it would be out of character with the area and 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 encompasses a large area would be out of character for the area and contrary to the intent of the ordinance.

(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 could still be secured with a 3' solid fence or 4' 50% open fence while meeting the requirements of the Chapter.

(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.

(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 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 in this location. The proposed fence is not consistent with the intent of the Ordinance. There is nothing preventing the fence from being installed in conformance with 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: 1637 TAYLOR ST
Owner: OLIVA CASTANEDA

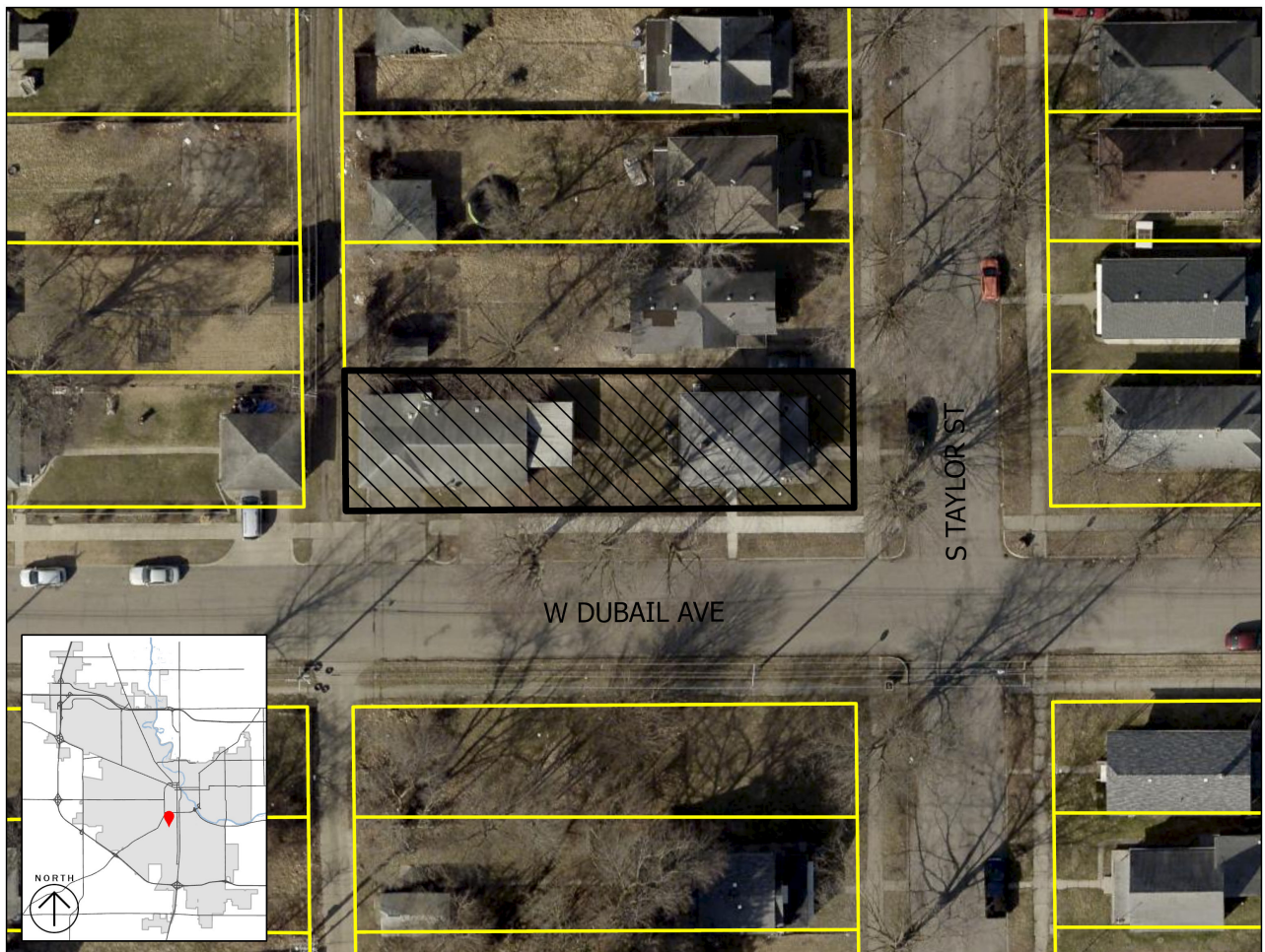
Project Summary

Installation of a privacy fence in the corner yard.

Requested Action

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

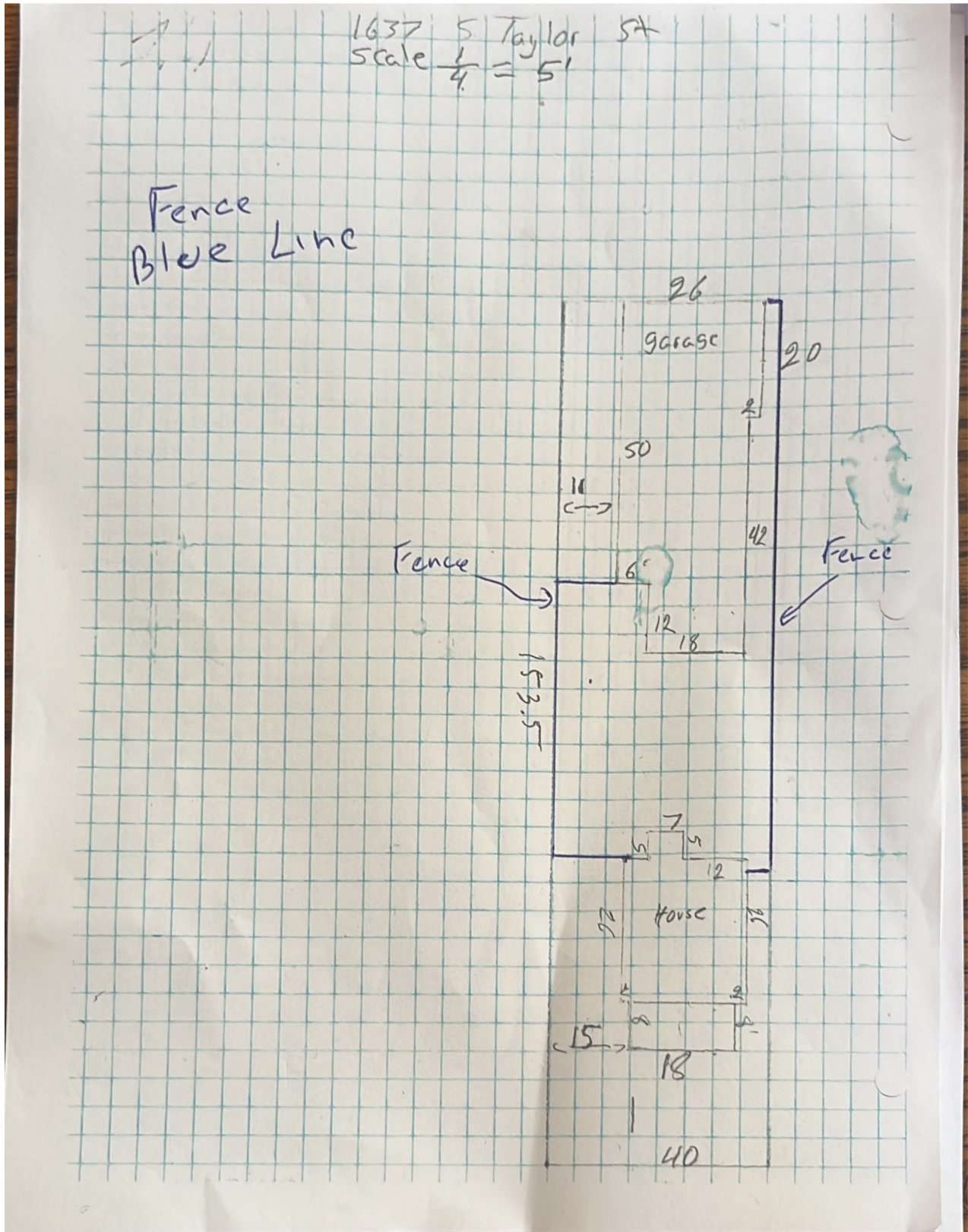
Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the Staff recommends the Board deny the 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 6' solid fence in an established corner yard could be injurious to the general welfare of community because it would be out of character with the area and 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 would be out of character for the area and contrary to the intent of the ordinance.

(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 could still be secured with a 3' solid fence or 4' 50% open fence at the property line. Alternatively, a 6' solid fence could run parallel with the southern side of the house extending from the intersection of the corner and rear walls.

(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 at the property line or a 6' solid fence in the established rear yard.

(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 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 in this location. The proposed fence is not consistent with the intent of the Ordinance. There is nothing preventing the fence from being installed in conformance with 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: 613 NAPOLEON ST
Owner: THOMAS & GABRIELLA BELT HW

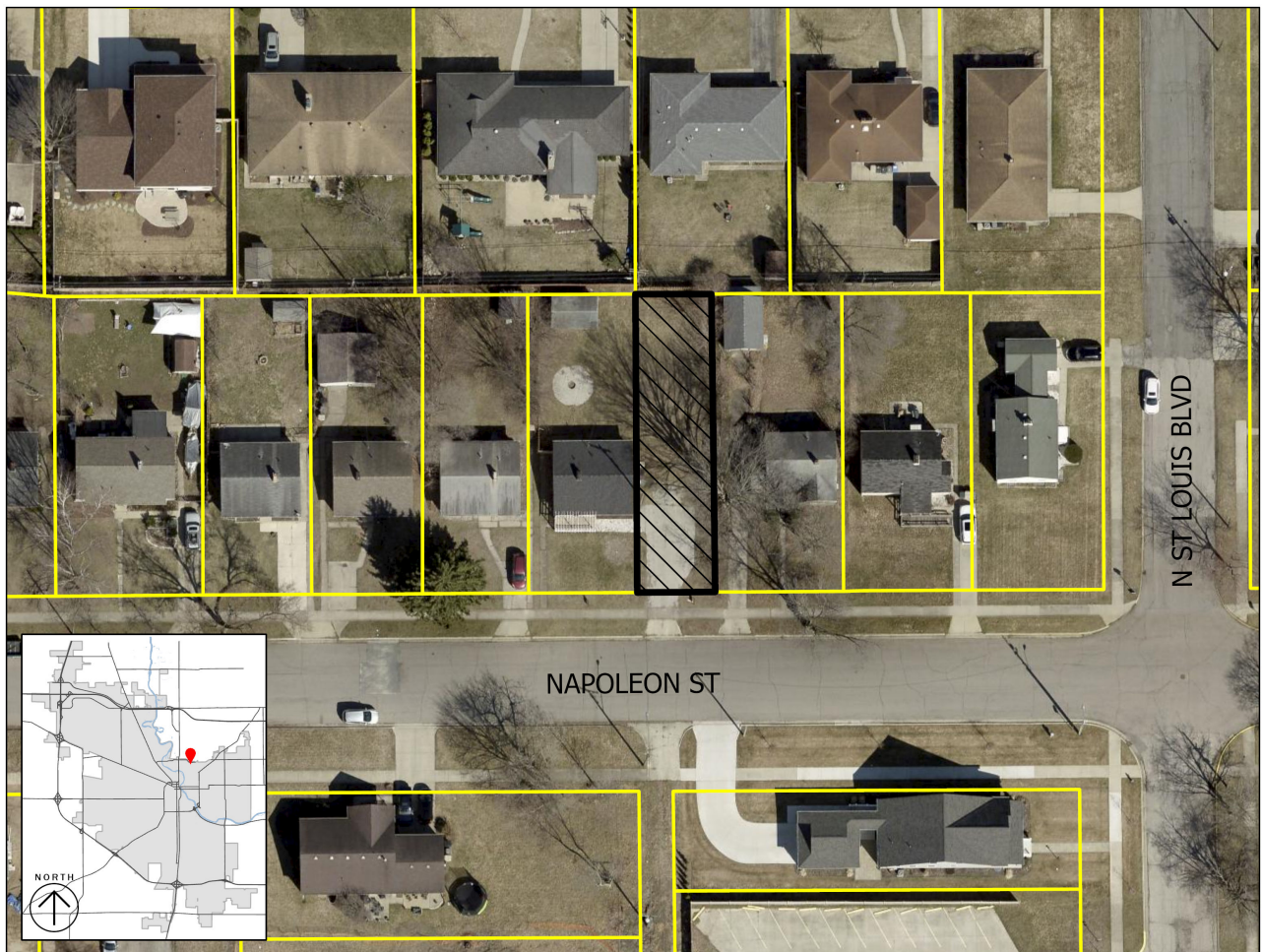
Project Summary

Variance from the required 5' side yard setbacks to 4' for both side yards.

Requested Action

Variance(s): 1) from the required 5' side yard setbacks to 4' for both side yards

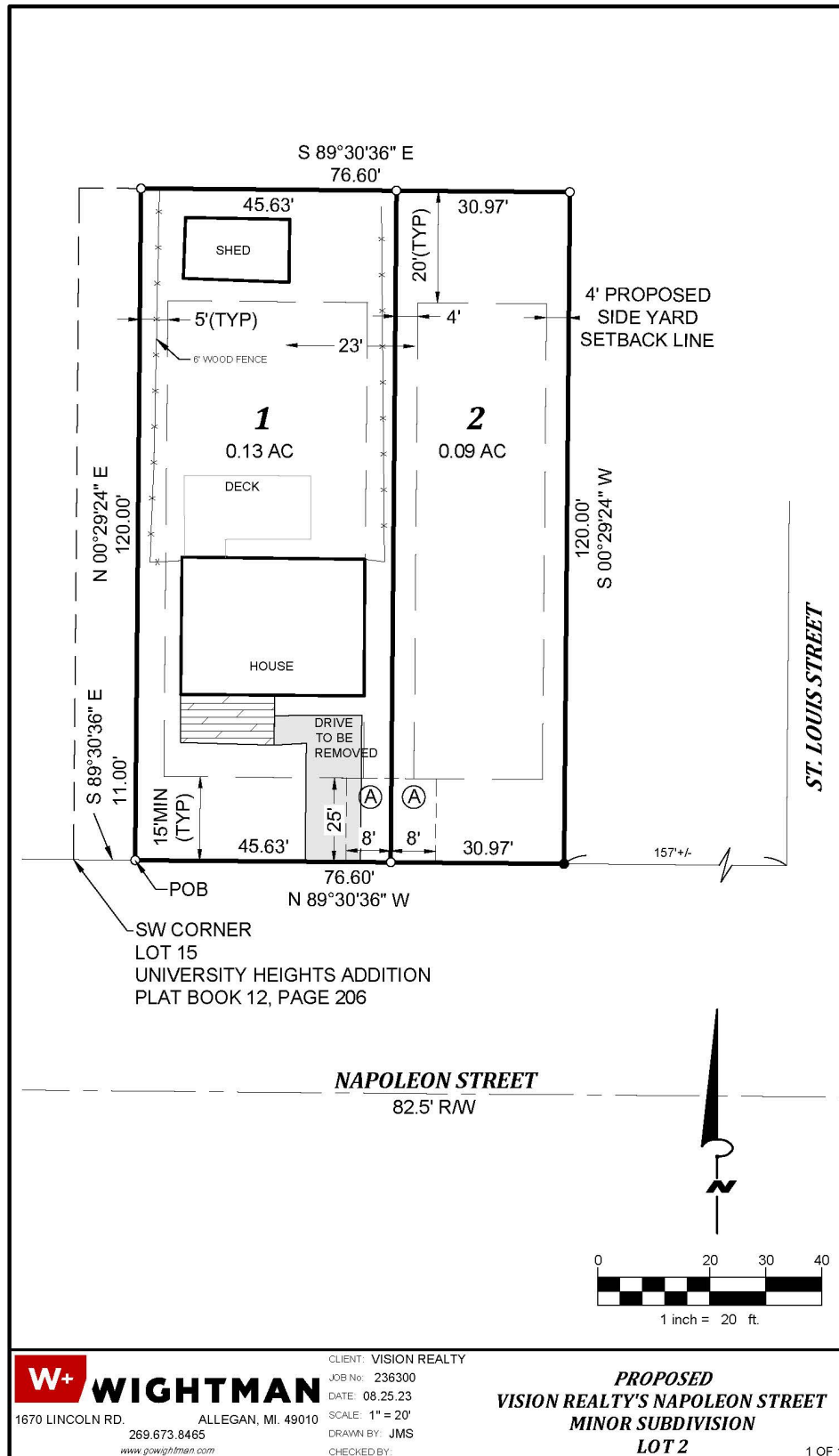
Site Location



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

The proposed variance is out of character with the area, which may impact the 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. Maintaining a minimum of 10' between structures is critical for emergency access and public safety.

(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 terms of this Chapter would not result in practical difficulties in the use of the property. A new home could be built on the lot that conforms to the setbacks established in 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. A new house could be built on the newly created lot that would be within the setbacks 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 of the property to overcome. The variance is caused by the subdivision of two lots resulting in a 30.97' lot which they deem too narrow to build their desired home.

Analysis & Recommendation

Analysis: There are no practical difficulties or unique characteristics that support the requested variance. Minimum setbacks, especially along the side lot lines, are critical for maintaining adequate light, air, and safety standards.

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: 1132 PORTAGE AVE
Owner: SHARI SELLERS

Project Summary

Request a Special Exception to allow for the use of a duplex on a U1 zoned lot.

Requested Action

Special Exception: 2 unit dwelling

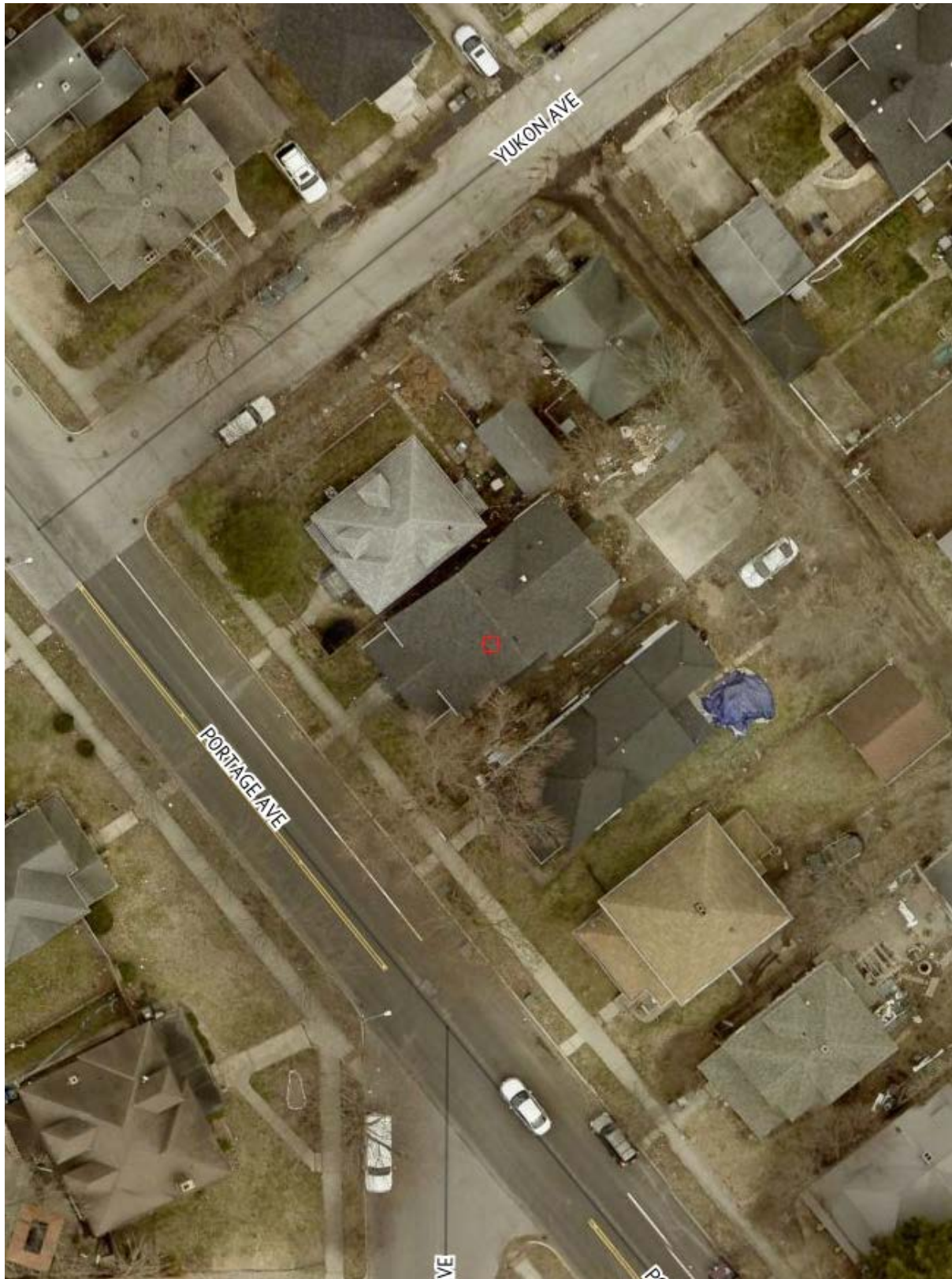
Site Location



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 as presented.

Proposed Site Plan



Criteria for Decision Making: Special Exception

A Special Exception 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;

Approval of the Special Exception should not be injurious to the public health, safety, morals and general welfare of the community. The building is existing and no exterior renovations are proposed at this time. A two-unit dwelling will provide more residents to the neighborhood which will increase safety and the general welfare of the community.

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

Legalizing a duplex should not injure or adversely affect the use or value of the adjacent properties provided the current residential building form is maintained.

(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 use as a two unit dwelling will further complement the existing housing stock in the surrounding area and be visually indistinguishable from nearby one unit dwellings. The proposed use will provide more housing options for residents.

(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: Legalizing the use of the current two unit dwelling will further complement the existing housing stock in the surrounding area and is visually indistinguishable from nearby one unit dwellings. The proposed use will provide more housing options for residents.

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 as presented.

Property Information

Location: 1128 PORTAGE AVE
Owner: SHARI SELLERS

Project Summary

Request a Special Exception to allow for the use of a duplex on a U1 zoned lot.

Requested Action

Special Exception: 2 unit dwelling

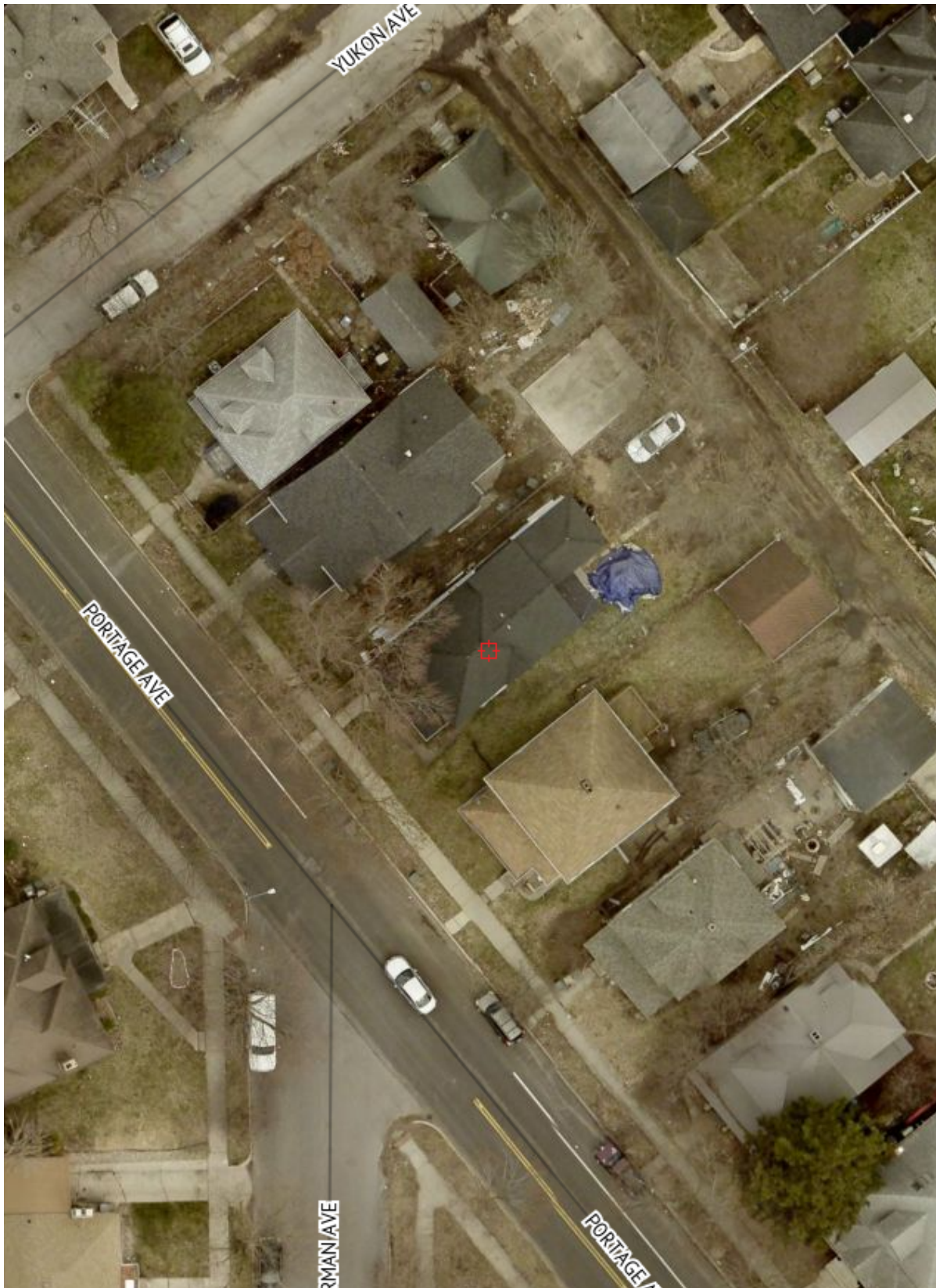
Site Location



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 as presented.

Proposed Site Plan



Criteria for Decision Making: Special Exception

A Special Exception 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 as reactivating a vacant large dwelling will provide more residents to the neighborhood which will increase safety and the general welfare of the community.

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

Adding an additional unit to an existing building should not injure or adversely affect the use or value of the adjacent area or property values, provided the current residential character is maintained. Renovation of the building should strengthen nearby property values and prevent the building from deteriorating.

(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 two unit dwelling will be consistent with the character of the district and neighborhood in both use and style of construction. The property immediately to the north is currently a two unit dwelling.

(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: The conversion and rehab of a current one unit dwelling to a two unit dwelling will further complement the existing housing stock in the surrounding area. The proposed use will provide more housing options for residents.

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 as presented.

Property Information

Location: 110 MAIN
Owner: TEACHERS CREDIT UNION

Project Summary

Installation of monument sign in DT Downtown zoning district.

Requested Action

Special Exception: a free standing sign in a Downtown zoning district

Site Location

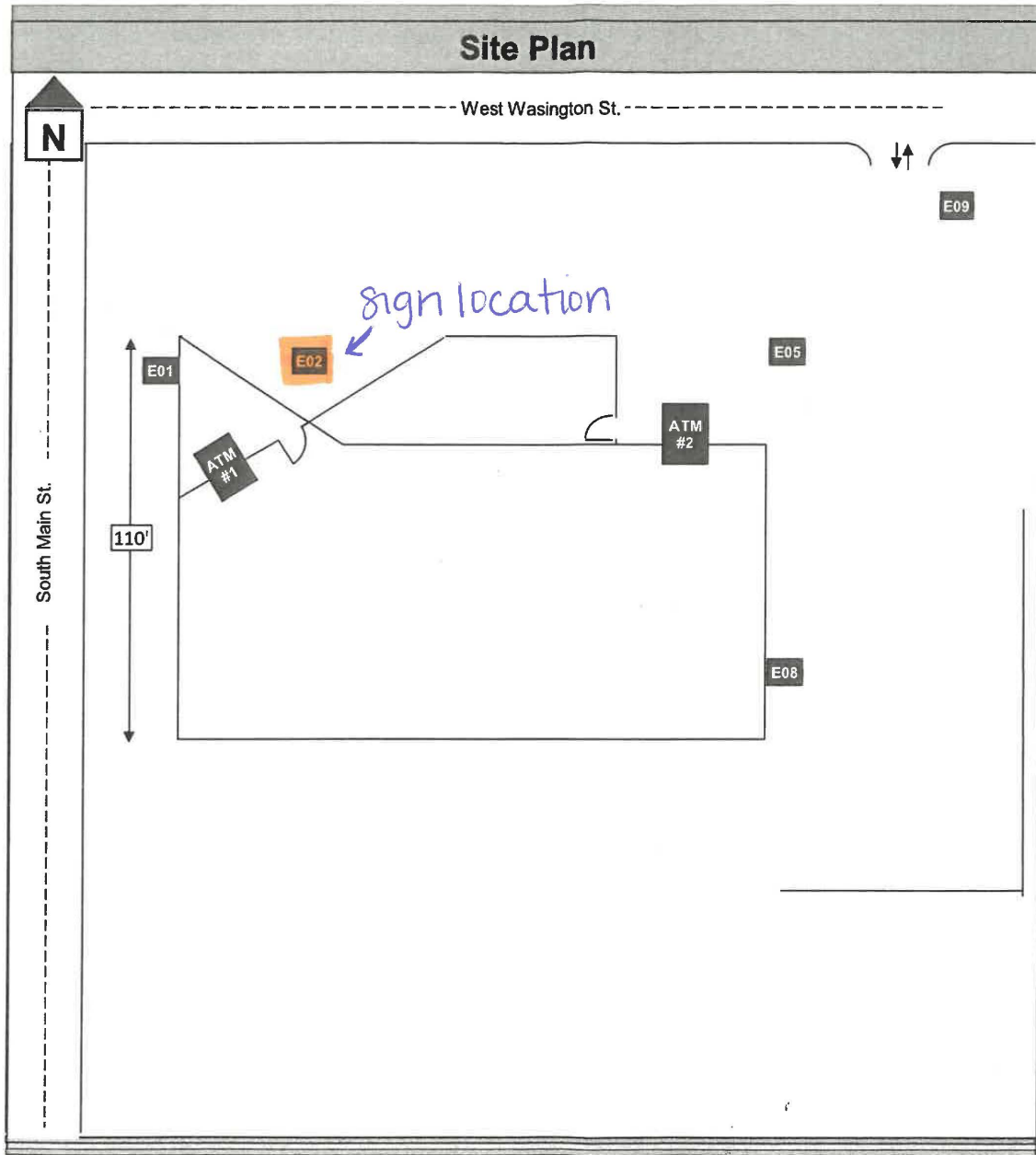


Staff Recommendation

Based on the information provided prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with an unfavorable recommendation. Should the Board recommend approval of a freestanding sign at this location, it is recommended it follow monument signage standards for the NC Neighborhood Center district, i.e. maximum 32 square feet in area and, 8' in height. If it is determined the sign is located within City right-of-way, it would need to be relocated.

Proposed Site Plan

SITE MAP



CUSTOMER: Everwise Credit Union - 10009	JOB NAME: SIGN PACKAGE	DATE: 11-15-22
ADDRESS: 110 South Main St.	CITY/STATE: South Bend, IN	REV: 11 28 22
FILE: 10009 Everwise Credit Union (110 South Main Street-South Bend IN).cdr	SALES: BETSY LUKE	01 19 23
APPROVALS:	QTE. #: 00000	03 09 23
	W.O. #: 0000.0	04 04 23

Criteria for Decision Making: Special Exception

A Special Exception 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 may not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare, however, it is inconsistent with the intent of the ordinance. The DT Downtown zoning district is designed to be pedestrian oriented in scale.

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

The proposed use may injure or adversely affect the use of the adjacent area or property values therein as the sign is out of scale for the built environment and visually imposing.

(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 sign is not consistent with the character of the district as freestanding signs in the DT Downtown District are not permitted. There are no practical difficulties or unique characteristics that support the the need for a freestanding sign.

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

The petition is not consistent with South Bend City Plan (2006) policy UD1; Enhance the aesthetic appeal of the built environment.

Analysis & Recommendation

Analysis: There are no practical difficulties or unique characteristics for the petitioner that would necessitate a monument sign at this 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 an unfavorable recommendation. Should the Board recommend approval of a freestanding sign at this location, it is recommended it follow monument signage standards for the NC Neighborhood Center district, i.e. maximum 32 square feet in area and, 8' in height. If it is determined the sign is located within City right-of-way, it would need to be relocated.