

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Wednesday, December 6, 2023 - 4:30 p.m.

County-City Building

13th Floor - BPW Conference Room

www.tinyurl.com/sbbza

PUBLIC HEARING:

- 1. Location:** 1114 INDIANA AVE BZA#0221-23
Owner: CHARLES W BROOKS & REBECCA P MORROW JT W/FROS NOT TIC
Requested Action:
Variance(s):
1) from the maximum 1 detached accessory structures to 3;
2) from the 5' minimum rear and side setback to 0'
Zoning: U1 Urban Neighborhood 1
- 2. Location:** 918 CALVERT ST BZA#0238-23
Owner: ROSENDO SANCHEZ
Requested Action:
Variance(s):
1) Accessory structure without a primary
Zoning: U1 Urban Neighborhood 1
- 3. Location:** 201 POKAGON ST BZA#0240-23
Owner: LIHOSIT ROBERT A TRUST
Requested Action:
Variance(s):
1) from the 5' minimum rear yard setback of a rear extension to 3'
2) from garage set back 5' from corner facade to 3'
3) from 50% of the facade in the setback zone to 30%
Zoning: U1 Urban Neighborhood 1
- 4. Location:** 1044 LINCOLNWAY BZA#0233-23
Owner: RONALD E KOEHLER
Requested Action:
Special Exception: a Group Residence
Zoning: U3 Urban Neighborhood 3
- 5. Location:** 2921 WESTERN AVE BZA#0239-23
Owner: ROBERT HENDERSON
Requested Action:
Special Exception: a Group Residence
Zoning: NC Neighborhood Center

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

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – November 6, 2023
2. Minutes – November 6, 2023
3. Other Business
 2024 Calendar
4. Adjournment

NOTICE FOR HEARING AND SIGN IMPAIRED PERSONS

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

Property Information

Location: 1114 INDIANA AVE
Owner: CHARLES W BROOKS & REBECCA P MORROW JT W/FROS NOT TIC

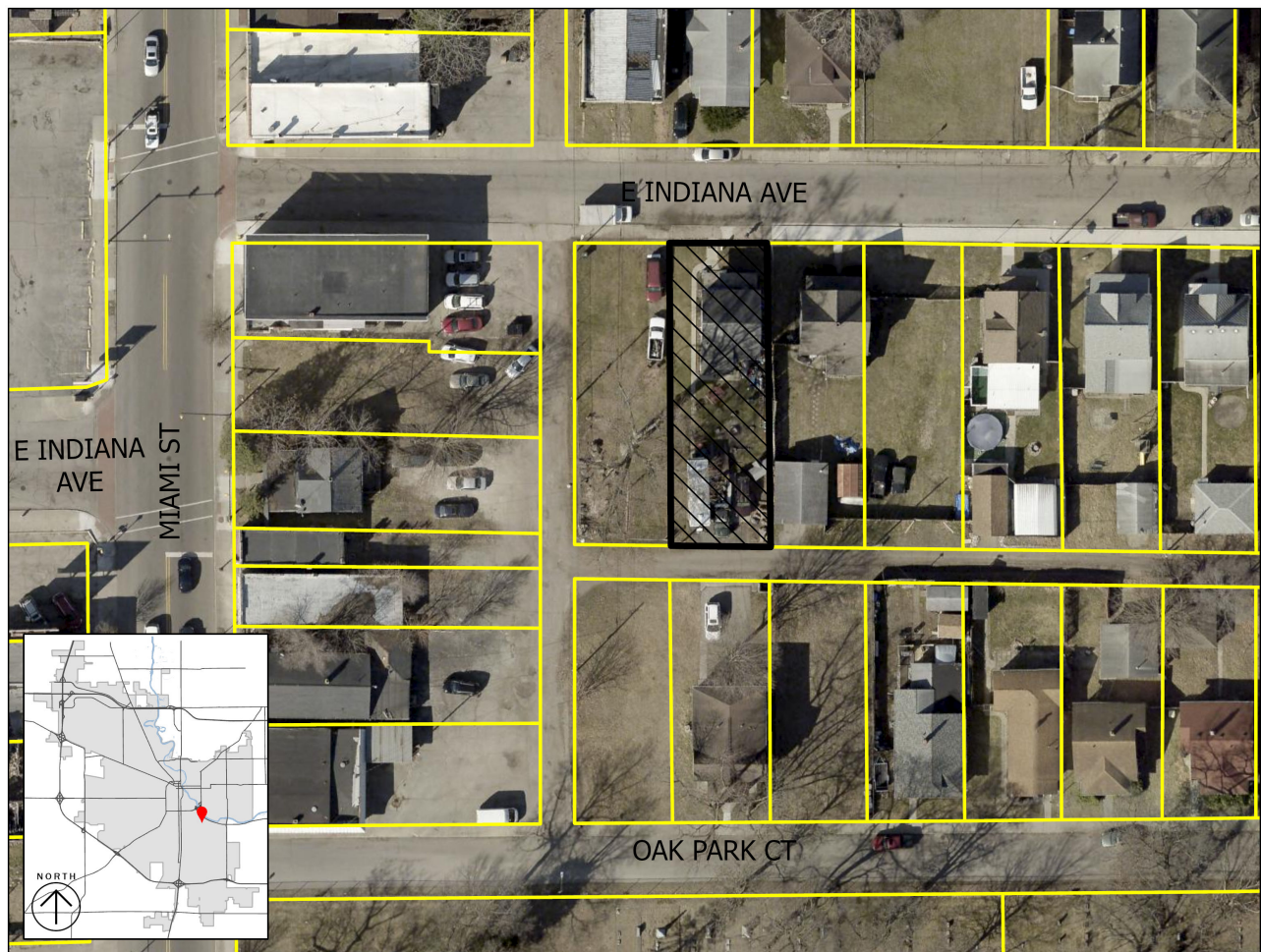
Project Summary

Allowing for the continued use of several existing sheds in the rear and side yard of the property.

Requested Action

Variance(s): 1) from the maximum 1 detached accessory structures to 3
2) from the 5' minimum rear and side setback to 0'

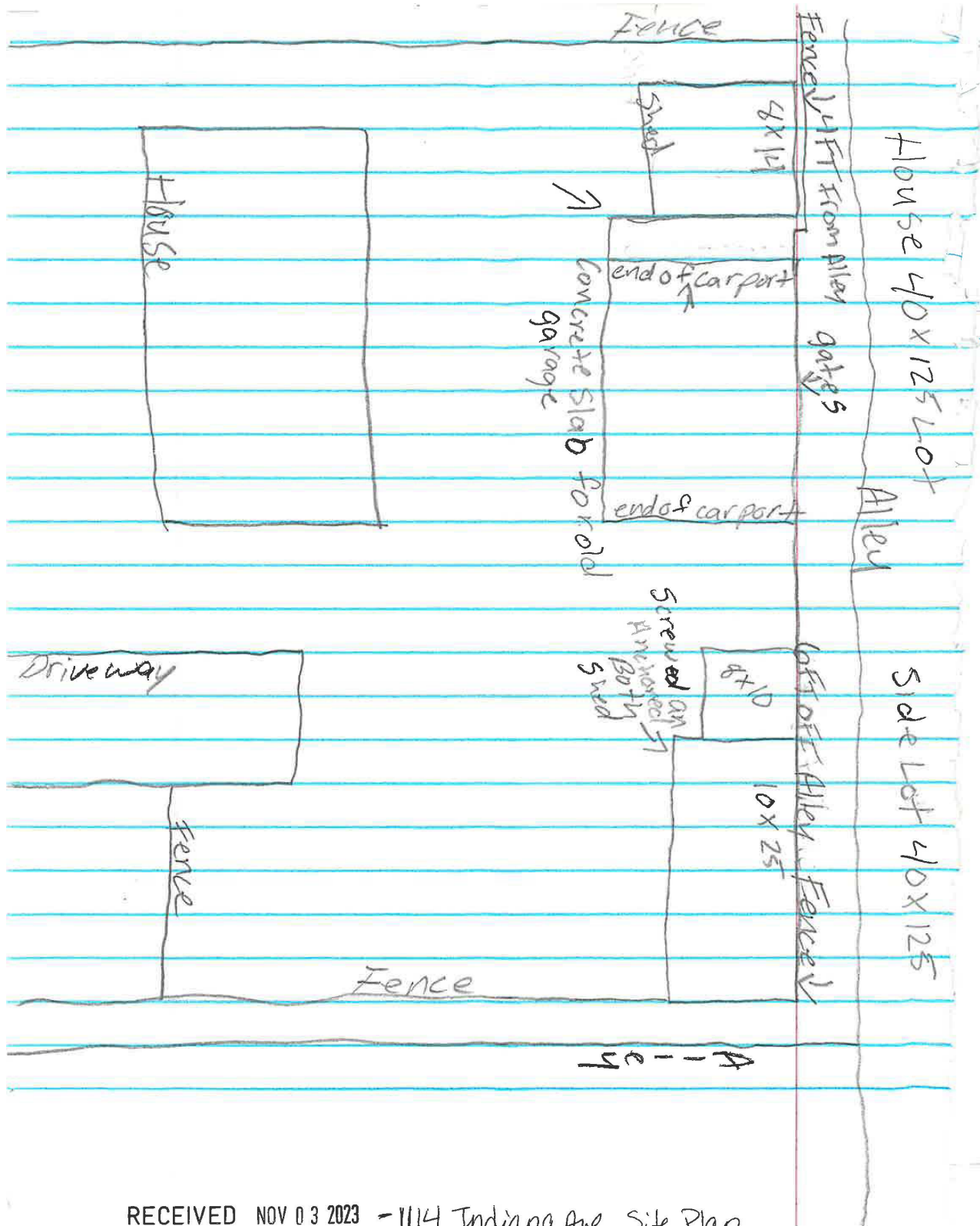
Site Location



Staff Recommendation

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

Proposed Site Plan



Criteria for Decision Making: Variance(s)

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

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

The proposed variances are out of character with the area and do not meet the intent of the Ordinance, 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 with this area, which could have an adverse impact on the value of surrounding properties. Accessory structures in this alley have a setback of at least 5'. The intent of the Ordinance is to limit properties to one detached accessory structure, allowing for one additional shed of 120 square feet or less. Exceeding this number could damage the 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

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 or location 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. An existing concrete pad on the property could support a larger accessory structure set back more than 5' from the alley, allowing for storage that would meet the intent of the Ordinance without requiring a variance.

(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 structures were built on the property without the appropriate permits or approvals from the building department and zoning department. Had the applicant applied for a building permit or communicated with zoning, they would have been made aware of the applicable regulations.

Analysis & Recommendation

Analysis: The intent of the Ordinance is to limit properties to one detached accessory structure, set back a minimum of 5' from the rear lot line. Allowing additional accessory structures at this property within the setback area would be out of character with the neighborhood and would not meet the intent of the Ordinance. There is no hardship on the property that merits variance #1 or #2 and the residential use is not impacted by the number or location of accessory structures.

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

Property Information

Location: 918 CALVERT ST
Owner: ROSENDO SANCHEZ

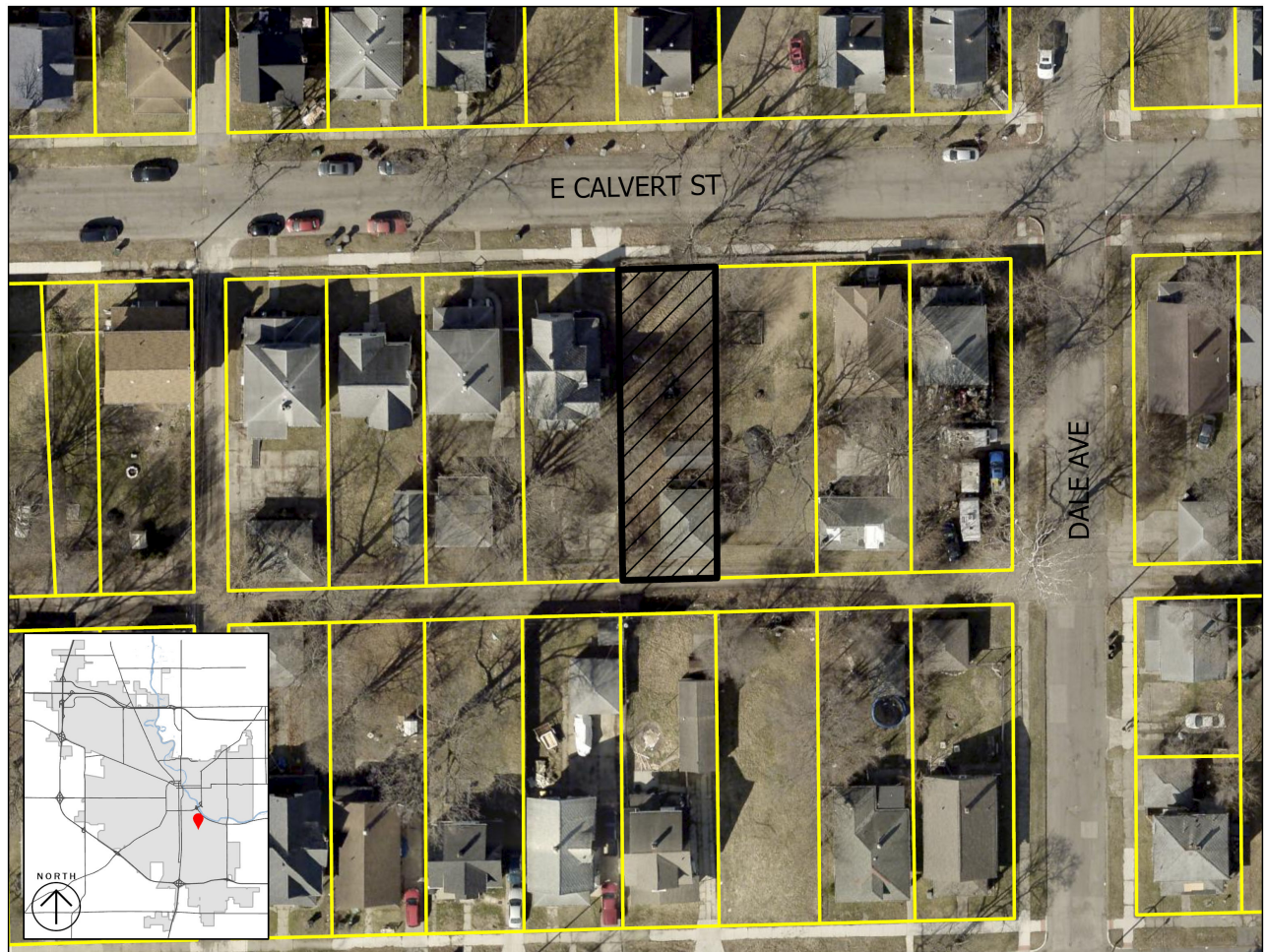
Project Summary

Legalizing an existing garage and a shed as accessory structures without a primary.

Requested Action

Variance(s): 1) Accessory structure without a primary

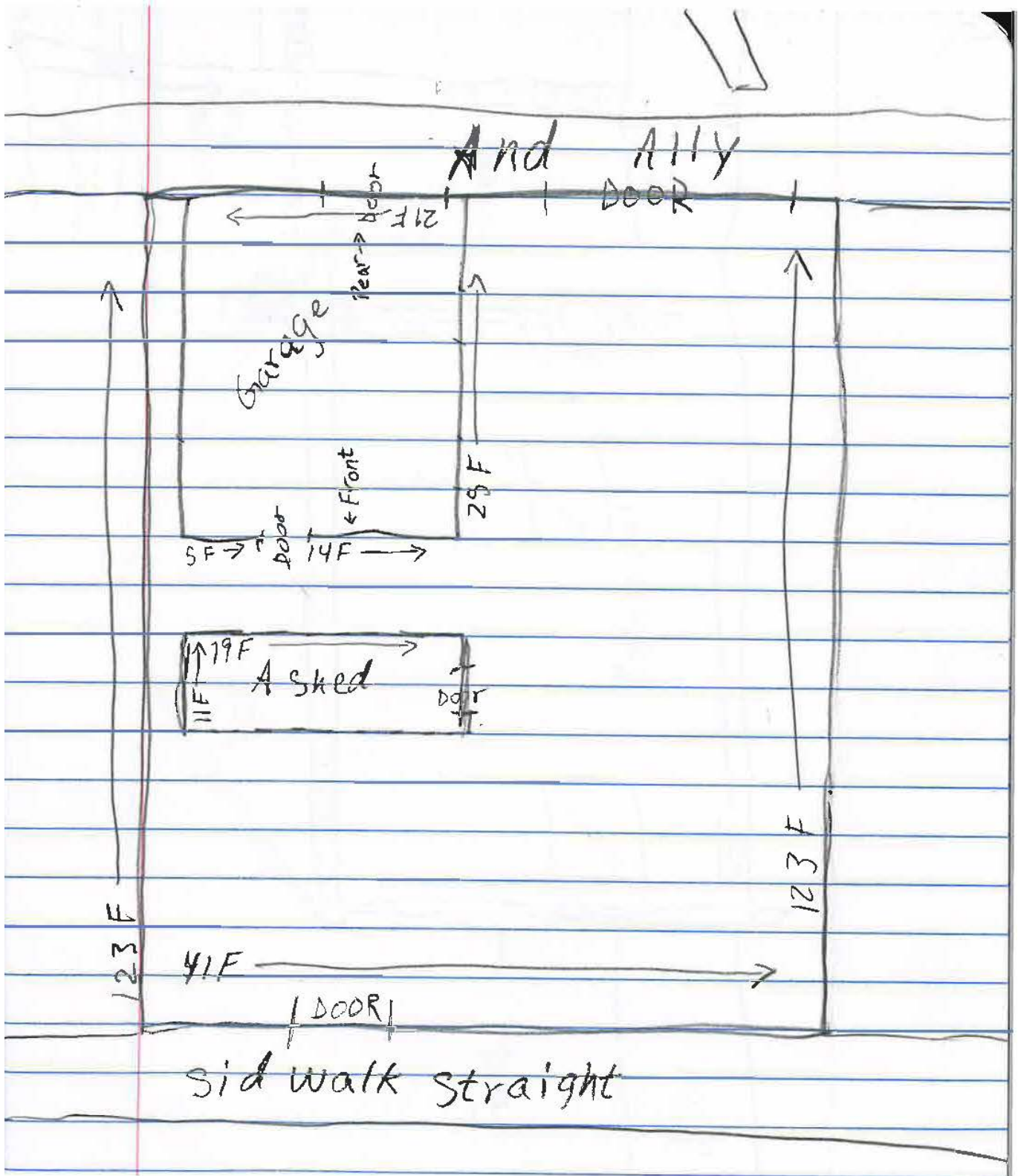
Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented conditional to the property owner obtaining a permit for a primary structure by 12/4/25 and beginning construction by 12/4/26.

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 should not be injurious to the public health, safety, morals and general welfare of the community. The variance legalizes existing structures that match the character of 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 use and value of the area adjacent to the property should not be affected in a substantially adverse manner. The legalization of the existing garage and shed will facilitate new construction on the property.

(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 the Ordinance would result in practical difficulties to the use of the property. Requiring the property owner to remove the garage because there is no primary structure would be counterproductive, seeing as the owner will be utilizing said garage to construct a primary structure on the property.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary. The variance would legalize a garage that has existed since at least 1957 and a shed that was built prior to 2002 to facilitate construction of a new house on the lot.

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

The variance does correct a hardship caused by a former owner of the property. The house in front of the garage was removed between 1976 and 1986, creating a lot that had an accessory structure without a primary. The shed was subsequently built between 1998 and 2002.

Analysis & Recommendation

Analysis: Granting the variance will allow for the construction of a new house on the lot. The garage and shed are consistent with the character of the area and the legalization of the structures will facilitate further development in the community.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented conditional to the property owner obtaining a permit for a primary structure by 12/4/25 and beginning construction by 12/4/26.

Property Information

Location: 201 POKAGON ST
Owner: LIHOSIT ROBERT A TRUST

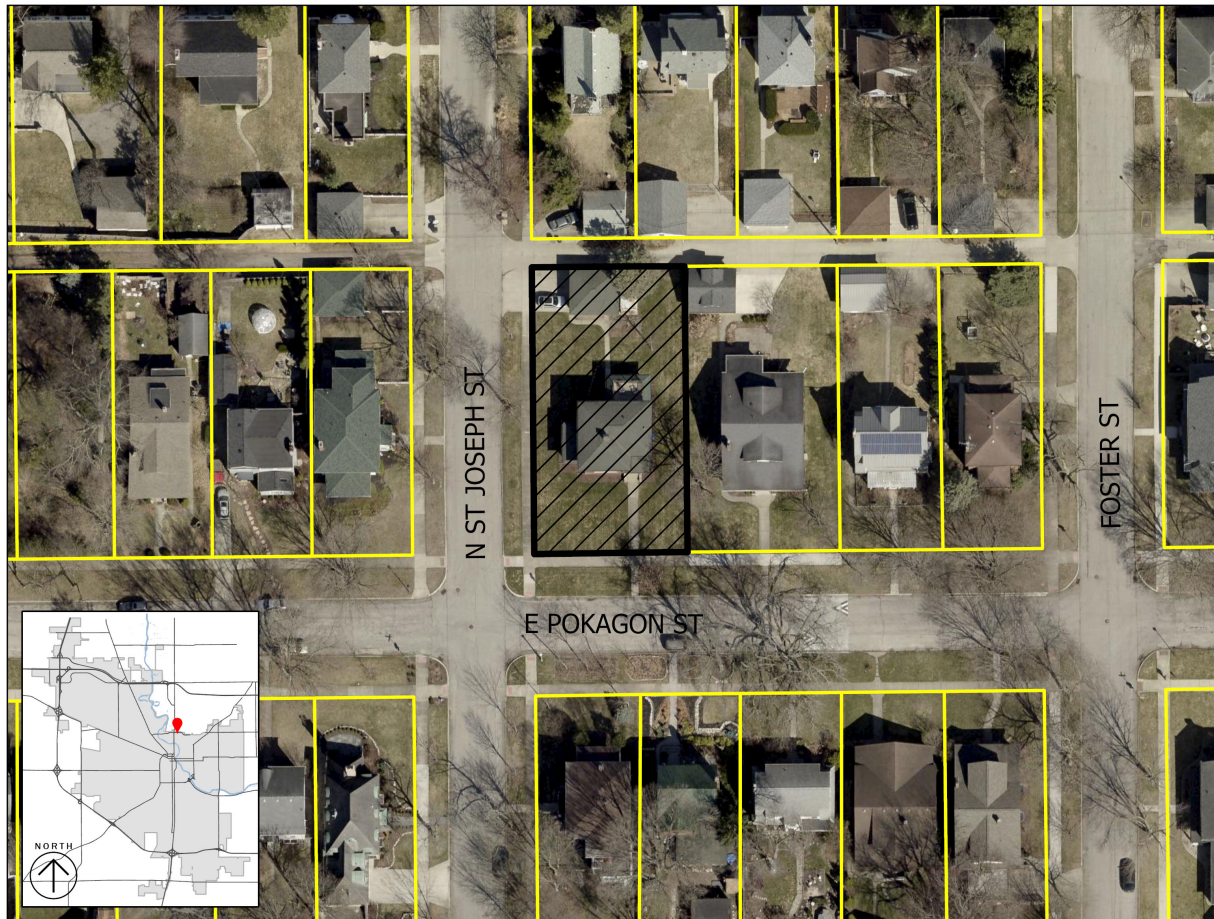
Project Summary

Building a rear yard extension that connects to the existing garage.

Requested Action

- Variance(s): 1) from the 5' minimum rear yard setback of a rear extension to 3'
- 2) from garage set back 5' from corner facade to 3'
- 3) from 50% of the facade in the setback zone to 30%

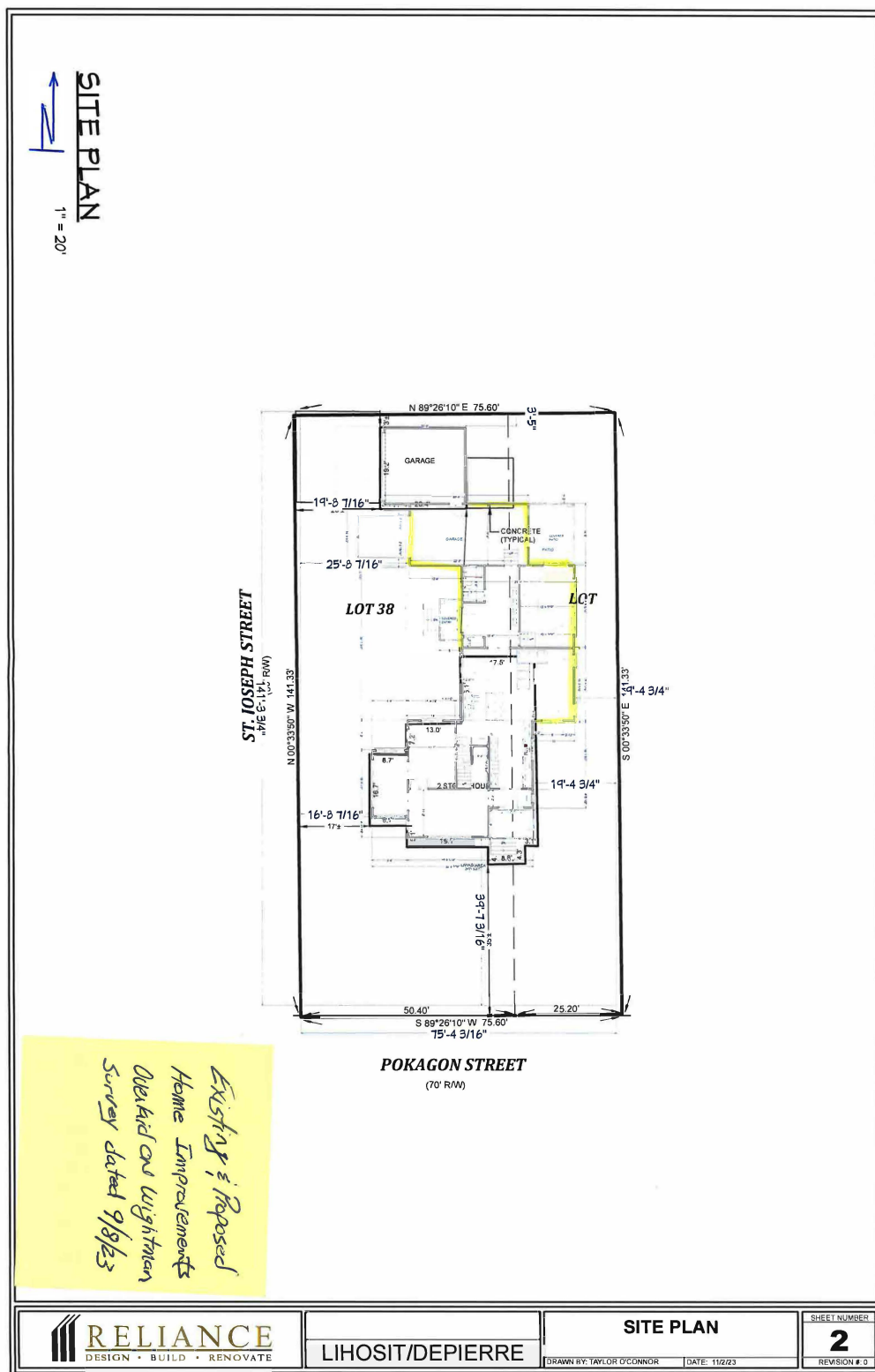
Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the variances be granted 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 approval of these variances should not be injurious to the general welfare of the community. The location of the existing garage must be legalized through variances because it is connecting to a rear yard house extension. The garage will not encroach any further towards the property line or the street.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

The use and value of adjacent properties should not be affected in a substantially adverse manner. The variances serve to legalize a rear yard extension that matches the character of the 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 result in practical difficulties in the use of the property. A rear extension could be built that did not attach to the existing garage and was within the corner setback zone.

(4) The variance granted is the minimum necessary

The variances corresponding to the location of the garage are the minimum necessary, as they are legalizing the location of a structure that has existed for almost 60 years. The variance allowing for less of the facade in the setback zone is not the minimum necessary, as a different design could shift the facade closer to N. St. Joseph St. However, the design mirrors the existing layout of the house and matches the character of the neighborhood.

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

There is no hardship on the property. The variances would serve to support a proposed design for a rear yard extension.

Analysis & Recommendation

Analysis: Variances #1 and #2 serve to legalize the location of a garage that has existed for almost 60 years while allowing it to be incorporated into a rear yard house extension. Variance #3 allows for a design that mirrors the existing layout of the house and matches the character of the neighborhood.

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

Property Information

Location: 1044 LINCOLNWAY
Owner: RONALD E KOEHLER

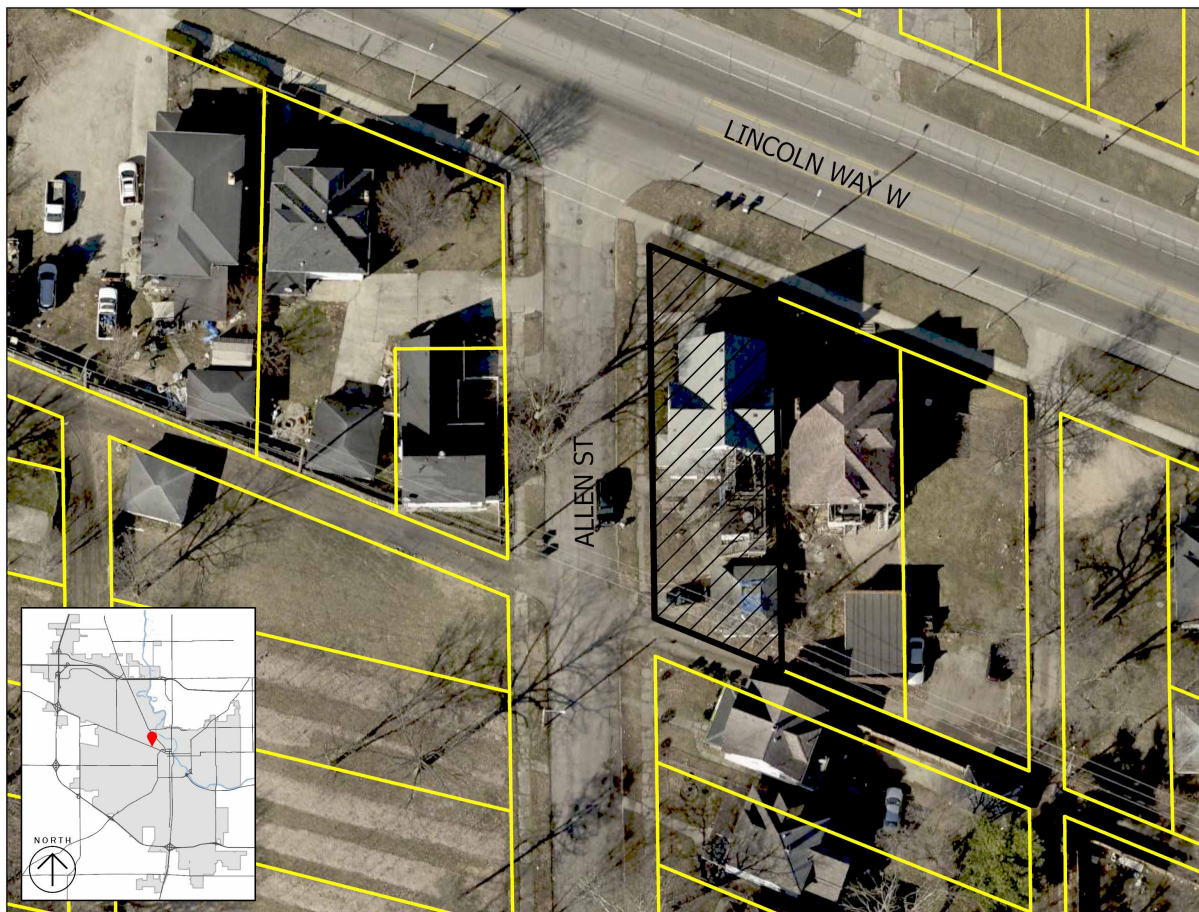
Project Summary

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 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 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 corridor with several commercial uses nearby.

(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 individuals.

(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.

Property Information

Location: 2921 WESTERN AVE
Owner: ROBERT HENDERSON

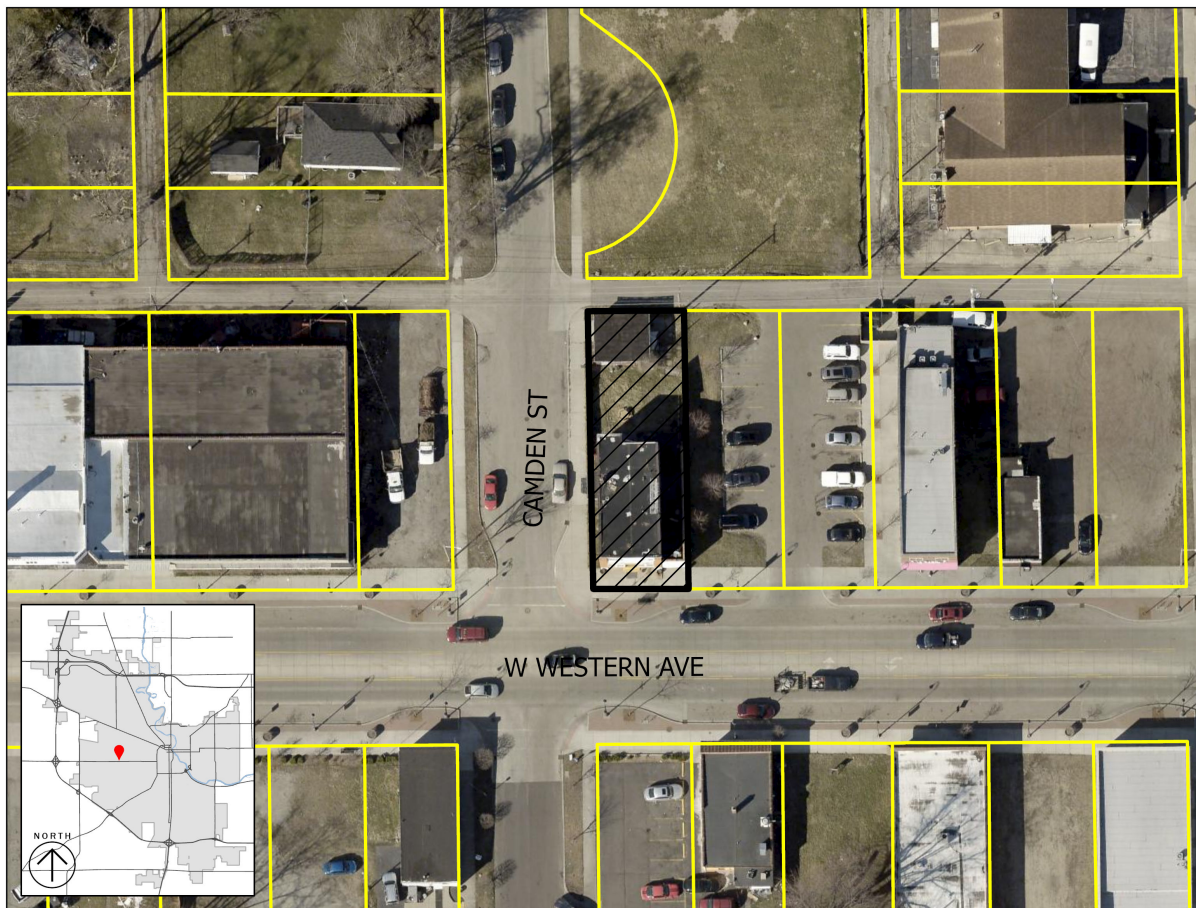
Project Summary

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 family per bedroom.

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 or general welfare of the community. A group residence aligns with the intent of NC districts to support a mixture of commercial uses and higher density dwelling units.

(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 has operated as a group residence for multiple years and will continue to function in this capacity.

(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 group residence will be consistent with the character of the district and neighborhood in both use and style of construction. Western Ave is a mixed use corridor and the group residence will offer multiple dwelling units in a structure that is suitable for the use.

(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: This group residence will be consistent with the character of the neighborhood in both use and style of construction. Western Ave is a mixed use corridor and the group residence will offer multiple dwelling units in a structure that is suitable for the use. The group residence will meet the intent of the Comprehensive Plan by supporting a mix of housing types, densities, price ranges, and amenities.

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 family per bedroom.