

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, February 5, 2024 - 4:00 p.m.

County-City Building

Fourth-Floor Council Chambers

www.tinyurl.com/sbbza

PUBLIC HEARING:

- Location:** 2301 LINCOLN WAY WEST BZA#0248-24
Owner: BETTIE JO WILLIAMS
Requested Action:
Variance(s):
1) from a maximum 4' fence height in a corner yard for a fence that is greater than 50% open to 6'
Zoning: NC Neighborhood Center
- Location:** 2921 WESTERN AVE BZA#0239-23
Owner: ROBERT HENDERSON
Requested Action:
Special Exception: a Group Residence
Zoning: NC Neighborhood Center
- Location:** 609 LAPORTE AVE BZA#0246-24
Owner: NORTHWOOD INVESTMENTS LLC
Requested Action:
Special Exception: a Two-Unit Dwelling
Zoning: U1 Urban Neighborhood 1
- Location:** 828 BENDIX DR BZA#0247-24
Owner: WILLIAM C HAZEL JR
Requested Action:
Special Exception: a Two-Unit Dwelling
Zoning: U1 Urban Neighborhood 1

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – January 2, 2024
2. Minutes – January 2, 2024
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: 2301 LINCOLN WAY WE T
Owner: BETTIE JO WILLIAMS

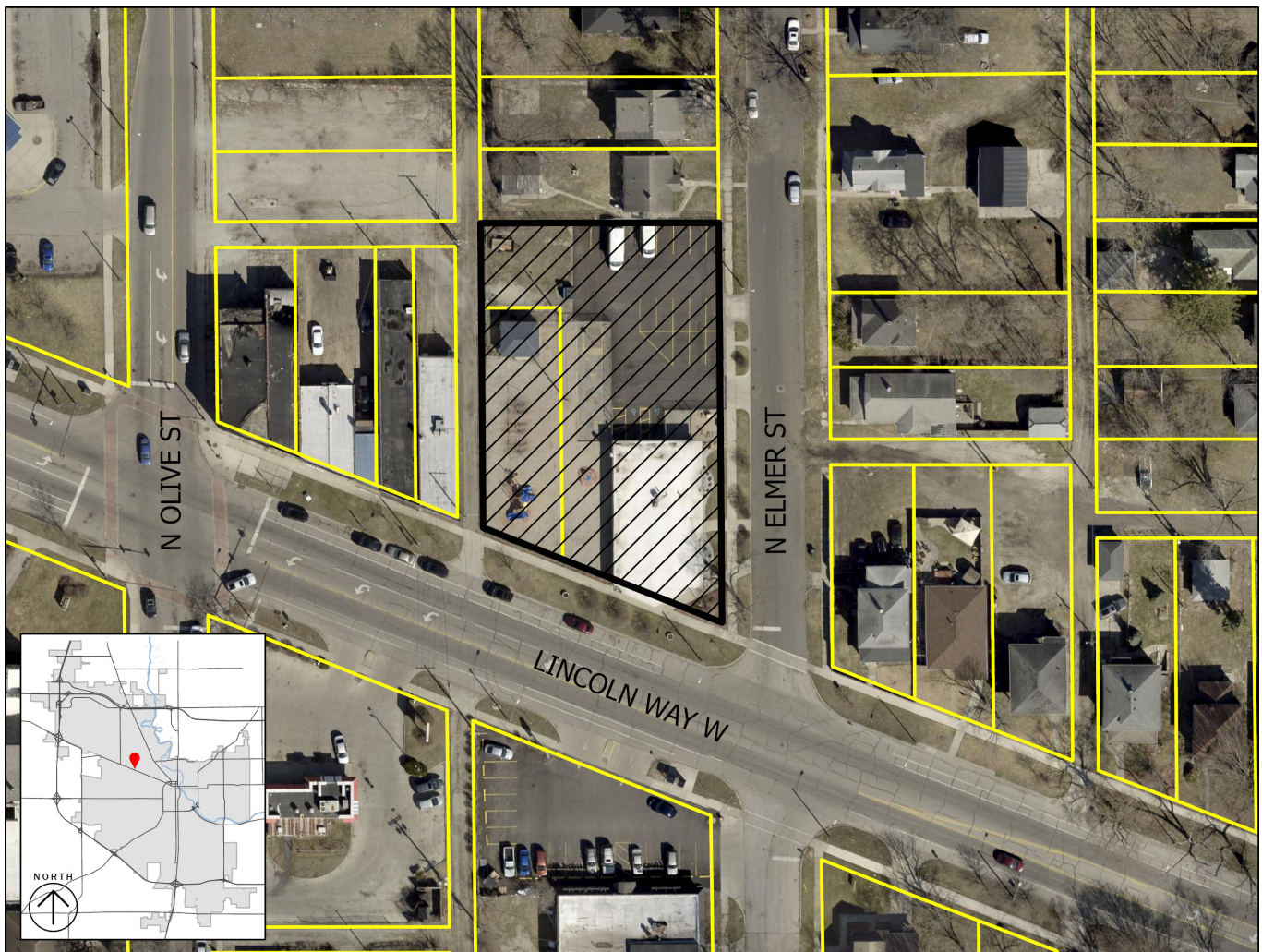
Project Summary

Replace existing 6' chain link fence with a 6' wrought iron fence at a child day care.

Requested Action

Variance(s): 1) from a maximum 4' fence height in a corner yard for a fence that is greater than 50% open to 6'

Site Location



Staff Recommendation

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

Proposed Site Plan

Mike's FENCING

Quote
Quote # 26205

*Kidz Kingdom
2301 L...
South...*

4/110/23
N↑
2 rows: 653 ft of 6'x12
1 row: 653 ft of
6'x12
6'x12 ft top Aluminum

92' 1/2" →

The diagram shows a large rectangular fenced area with several internal divisions. The outer dimensions are 60' on the left, 75' on the bottom, and 85' on the right. The top boundary is divided into 30' and 60' sections. Inside, there is a driveway on the left labeled '9' cantilever gate' and a smaller rectangular area labeled 'Garage' with a '4' gate' leading to it. A '48' gate' is also shown. A note 'House Asphalt' with an arrow points to a specific area. On the right side, there is an '18' cantilever gate'. The bottom right section has dimensions 10', 16', 18', 17', and 16'. A note 'V2' is written in the bottom right area.

68021 State Road 19 North • Nappanee, Indiana 46550 • www.mikesfencing.com
Phone 574-862-2006 • Fax 574-862-1227 • info@mikesfencing.com

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 should not be injurious to the general welfare of the community. The fence would serve to shelter a play area and the surrounding property for a children's daycare center adjacent to a major thoroughfare.

(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 new wrought iron fence would replace an existing chain link fence, which is a fence type that is prohibited in an NC district in the front or corner yard.

(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 require that the fencing surrounding a children's daycare center be reduced in height.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary. IC 12-13-5-3 mandates under Rule 4.7 on Child Care Centers; Licensing that "the outdoor play area shall be safely enclosed, fenced, or protected from traffic by other natural barriers." A variance would eliminate the need to reduce the height of fences surrounding the toddler play area and children's daycare center.

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

The play area and the southern portion of the parking lot/fence has been located in the corner yard since 2006. The parking lot/fence was expanded north in 2019. This is a hardship caused by the current owner of the property. However, the state requirement that the child care center be safely enclosed is not a hardship caused by the current owner.

Analysis & Recommendation

Analysis: At a child care center, state law requires that "the outdoor play area shall be safely enclosed, fenced, or protected from traffic by other natural barriers." The child care center is currently surrounded by a 6' chain link fence, a fence type that is no longer permitted in the front/corner yard of an NC zoned parcel. The variance would allow for the replacement of the chain link fence with a permitted fence type that would serve to shelter a child care center adjacent to a major corridor.

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

Property Information

Location: 609 LAPORTE AVE
Owner: NORTHWOOD INVESTMENTS LLC

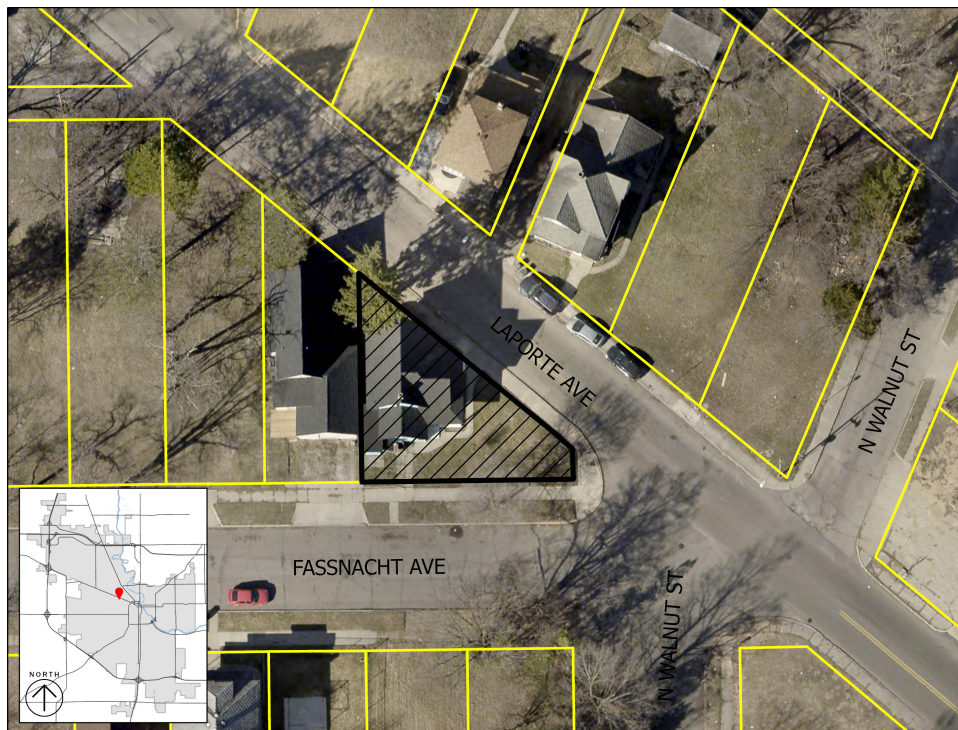
Project Summary

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

Requested Action

Special Exception: two-unit dwelling

Site Location

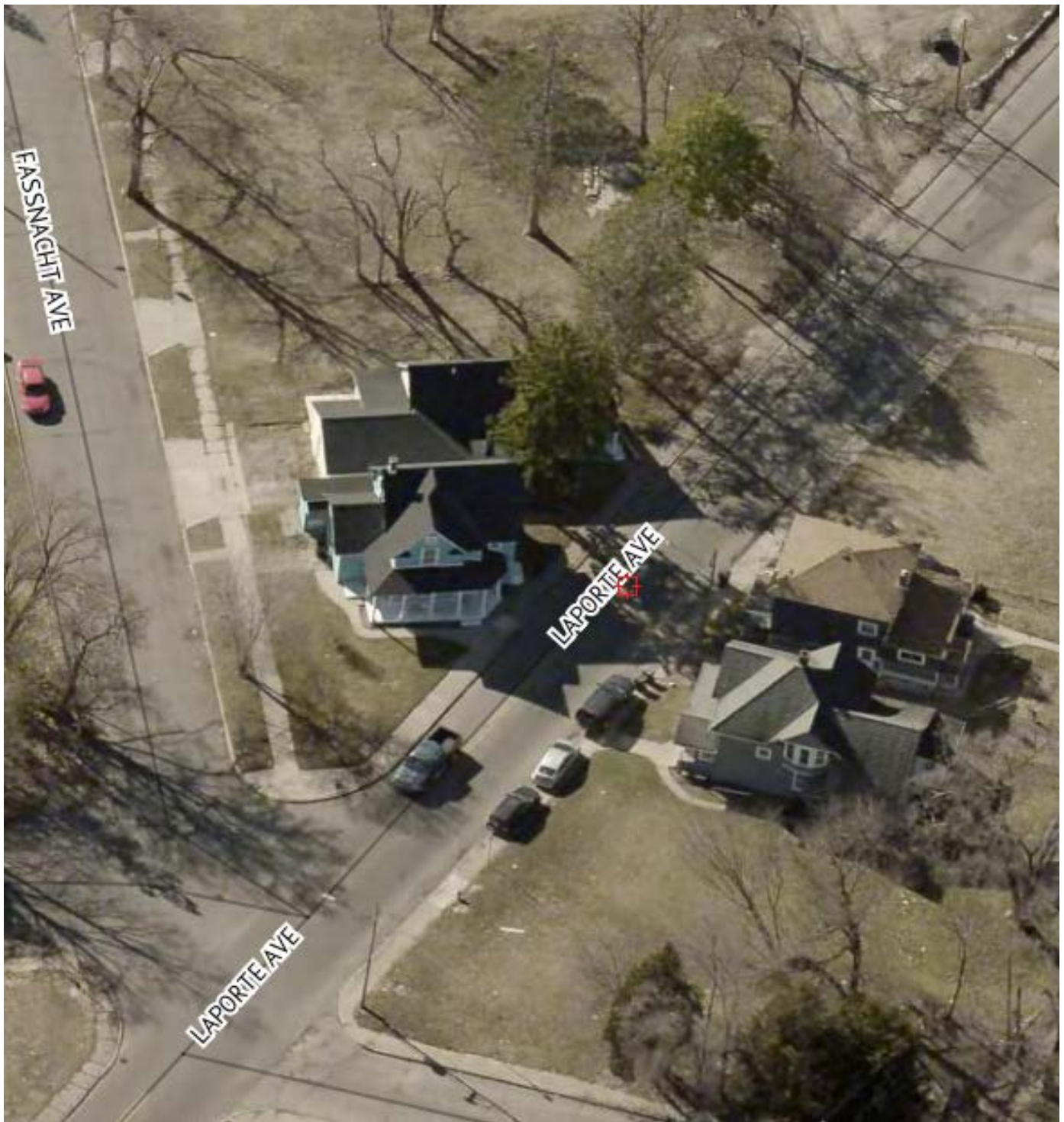


Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board send the petition as presented to the Common Council with a favorable recommendation subject to the following written commitments:

Owner will maintain the real estate and structures thereon in compliance with the South Bend Municipal Code, and specifically the Property Maintenance Code, and all existing pertinent codes. All persons performing work on the real estate and structures thereon must be registered and licensed as required by law, and the Owner will be responsible for ensuring that such persons obtain all permits required by law before performing such work. Interior and exterior inspections at the real estate and the structures thereon, as authorized by any applicable law or City of South Bend Municipal Code, are consented to at the full extent of Owner's authority (and as the Owner may delegate to an agent or property manager) and allowed at any reasonable time. Such inspections may occur at the City of South Bend's discretion to determine compliance with, and for the purpose of carrying out enforcement of, the applicable City of South Bend Municipal Code or any existing pertinent codes.

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 loss of population - a decline of approximately 26% in the general vicinity - that the neighborhood has experienced over the past 60 years has led to a decrease in the stability and general welfare of the community. Stabilizing both the population and the number of households is vital to the future of the neighborhood.

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

Legalizing a two-unit dwelling should not injure or adversely affect the use or value of the adjacent properties provided the current residential building form is maintained. A two-unit dwelling will provide more residents to the neighborhood which will increase safety and the general welfare of the community.

(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. It will further complement the existing housing stock in the surrounding area and 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: The proposed use will provide more housing options, especially a relatively affordable one, for residents. The legalization of this property 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.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board send the petition as presented to the Common Council with a favorable recommendation subject to the following written commitments:

Analysis & Recommendation**Staff Recommendation (continued):**

Owner will maintain the real estate and structures thereon in compliance with the South Bend Municipal Code, and specifically the Property Maintenance Code, and all existing pertinent codes. All persons performing work on the real estate and structures thereon must be registered and licensed as required by law, and the Owner will be responsible for ensuring that such persons obtain all permits required by law before performing such work. Interior and exterior inspections at the real estate and the structures thereon, as authorized by any applicable law or City of South Bend Municipal Code, are consented to at the full extent of Owner's authority (and as the Owner may delegate to an agent or property manager) and allowed at any reasonable time. Such inspections may occur at the City of South Bend's discretion to determine compliance with, and for the purpose of carrying out enforcement of, the applicable City of South Bend Municipal Code or any existing pertinent codes.

Property Information

Location: 828 BENDIX DR
Owner: WILLIAM C HAZEL JR

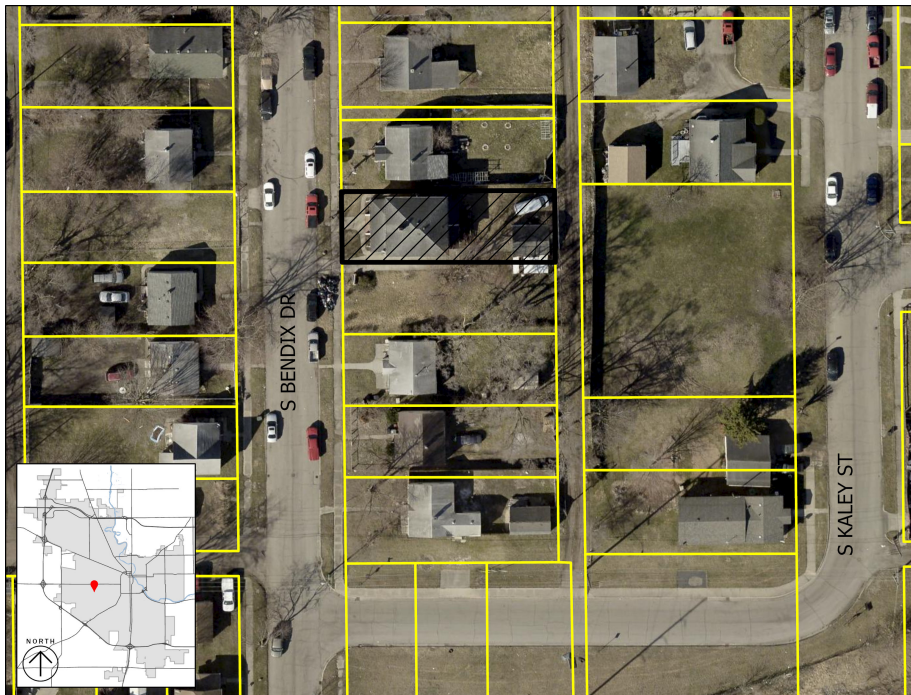
Project Summary

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

Requested Action

Special Exception: two unit dwelling

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board send the petition as presented to the Common Council with a favorable recommendation subject to the following written commitments:

Owner will maintain the real estate and structures thereon in compliance with the South Bend Municipal Code, and specifically the Property Maintenance Code, and all existing pertinent codes. All persons performing work on the real estate and structures thereon must be registered and licensed as required by law, and the Owner will be responsible for ensuring that such persons obtain all permits required by law before performing such work. Interior and exterior inspections at the real estate and the structures thereon, as authorized by any applicable law or City of South Bend Municipal Code, are consented to at the full extent of Owner's authority (and as the Owner may delegate to an agent or property manager) and allowed at any reasonable time. Such inspections may occur at the City of South Bend's discretion to determine compliance with, and for the purpose of carrying out enforcement of, the applicable City of South Bend Municipal Code or any existing pertinent codes.

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 was designed and built as a duplex. 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 two-unit dwelling 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;

Built in 1926 as a duplex, it has a mirrored floor plan with separate entrances to each unit. The two unit dwelling is consistent with the character of the district and neighborhood in both use and style of construction.

(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 legalization of this property as a two-unit dwelling will further complement the existing housing stock in the surrounding area. The duplex 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 as presented to the Common Council with a favorable recommendation subject to the following written commitments:

Analysis & Recommendation**Staff Recommendation (continued):**

Owner will maintain the real estate and structures thereon in compliance with the South Bend Municipal Code, and specifically the Property Maintenance Code, and all existing pertinent codes. All persons performing work on the real estate and structures thereon must be registered and licensed as required by law, and the Owner will be responsible for ensuring that such persons obtain all permits required by law before performing such work. Interior and exterior inspections at the real estate and the structures thereon, as authorized by any applicable law or City of South Bend Municipal Code, are consented to at the full extent of Owner's authority (and as the Owner may delegate to an agent or property manager) and allowed at any reasonable time. Such inspections may occur at the City of South Bend's discretion to determine compliance with, and for the purpose of carrying out enforcement of, the applicable City of South Bend Municipal Code or any existing pertinent codes.