

# City of South Bend

## BOARD OF ZONING APPEALS

---

### AGENDA

**Monday, March 1, 2021 - 4:00 p.m.**  
County-City Building  
Fourth-Floor Council Chambers

#### PUBLIC HEARING:

- Location:** 2102 IRELAND RD BZA#0044-21  
**Owner:** NOTRE DAME FEDERAL CREDIT UNION  
**Requested Action:** Variance(s): 1) To allow a drive-through facility in the established corner yard; and 2) To allow a trash enclosure to be located in an established corner yard  
**Zoning:** C Commercial
- Location:** 527 RIVERSIDE DR BZA#0045-21  
**Owner:** LARRY AND SANDRA SCHOHL  
**Requested Action:** Variance(s): 1) From the maximum one detached accessory building to two  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 1239 BEUTTER LN BZA#0046-21  
**Owner:** REBECA RODRIGUEZ  
**Requested Action:** Variance(s): 1) From the 5' minimum side and rear accessory building setback to 1'  
**Zoning:** S1 Suburban Neighborhood 1
- Location:** 1343 LASALLE AVE BZA#0047-21  
**Owner:** EMILY WANG AND GEOFF CEBULA  
**Requested Action:** Variance(s): 1) From the 3' maximum fence height in an established corner yard to a 6'  
**Zoning:** S1 Suburban Neighborhood 1

#### ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact - February 1, 2021
2. Minutes - February 1, 2021
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: 2102 IRELAND RD  
Owner: NOTRE DAME FEDERAL CREDIT UNION

### Project Summary

Expanding the existing entry to the drive-through lanes from the parking area. The added space is on the east side of the existing drive-through lanes entry and it further from Ironwood Rd. Relocating an existing trash can enclosure further to the east into the property.

### Requested Action

- Variance(s):
- 1) To allow a drive-through facility in the established corner yard
  - 2) To allow a trash enclosure to be located in an established corner yard

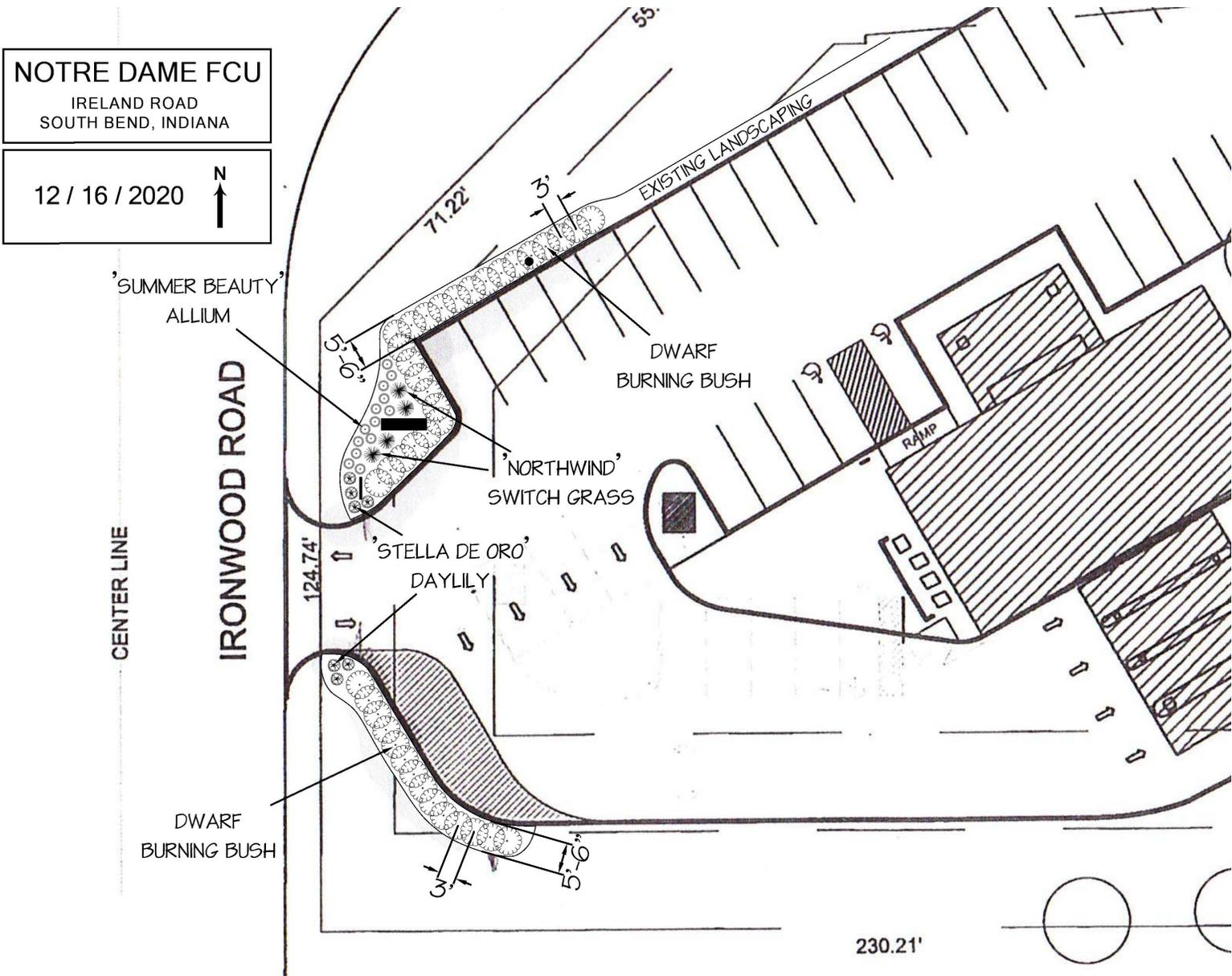
### Site Location



### Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to locating the trash enclosure behind the primary wall of the front facade and constructing it to current standards.

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**

Neither variance should be be injurious to the public health, safety, morals and general welfare of the community. The variances allow the existing drive-thru to remain largely as currently sited.

**(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**

Because the proposed variances allow the existing drive-thru to remain as currently sited, this should not adversely affect adjacent properties. The trash enclosure should be located in an inconspicuous location to comply with 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**

Strict application of the ordinance would result in the property owners having to remove already installed drive-thru to meet the ordinance. The way the building is sited on the property and it's relationship to the two street frontages creates a practical difficulty in complying with the strict application of the ordinance. An elevation change on the southern portion of the lot limits the practical location of the trash enclosure.

**(4) The variance granted is the minimum necessary**

The variances proposed are the minimum necessary to achieve a larger queuing area under the current traffic pattern. The only portion of the drive-through location within the established yard are the required stacking spaces. The variance for the trash enclosure location is not the minimum necessary. A location that is more screened from the general public should be chosen.

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

The increased dependence and use of the drive-through facility is not a hardship created by the owner of the property. The proposed variance is an effort to reduce the amount of cars stacked in the public right-of-way. The relocation of the trash enclosure is a hardship created by the current owner as it was not properly sited when originally built, and is being relocated as a function of expanding the drive-through lanes.

## Analysis & Recommendation

**Analysis:** The variances allow the existing drive-thru to remain largely as currently sited. A slight modification to the location of the trash enclosure will allow for better screening while still being accessible.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to locating the trash enclosure behind the primary wall of the front facade and constructing it to current standards.

---

**Property Information**

Location: 527 RIVERSIDE DR  
Owner: LARRY AND SANDRA SCHOHL

---

**Project Summary**

To construct a detached garage on site.

---

**Requested Action**

Variance(s): 1) From the maximum one detached accessory buildings to two

---

**Site Location**



---

**Staff Recommendation**

The staff recommends the Board approves the variances as presented.

Proposed Site Plan



## Criteria for Decision Making: Variance(s)

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

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

The neighborhood had developed with a pattern of detached garages being installed at or near the property line. As this property is two former lots combined into one, the addition of the added accessory use building will not be injurious to the public health, safety, morals and general welfare of the community if sited correctly.

**(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 alley's primary use is to allow residents to access their properties without adding traffic to the main street. The addition of a new garage should not adversely affect 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**

Strict application of the ordinance would require the property owner to remove a historic accessory structure in order to build an appropriately sized detached garage.

**(4) The variance granted is the minimum necessary**

The variance granted is the minimum necessary to add a modern sized garage on the property within the proper neighborhood context.

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

The variance does not correct a hardship caused by a former or current owner of the property. When the first two accessory use buildings were constructed, the property was not in a historic district.

## Analysis & Recommendation

**Analysis:** The existing detached garage on the property is regulated by the Historic Preservation District. Expanding or demolishing the existing garage would not comply with the Historic Preservation Standards. Approval of the variance requested allows for the construction of the garage that meets current size standards in a manner that can be compatible with the historic quality of the property.

**Staff Recommendation:** The staff recommends the Board approves the variances as presented.

---

**Property Information**

Location: 1239 BEUTTER LN  
Owner: REBECA RODRIGUEZ

---

**Project Summary**

Adding a shed on the property within the 5 ft. setback.

---

**Requested Action**

Variance(s): 1) From the 5' minimum side and rear accessory building setback to 1'

---

**Site Location**

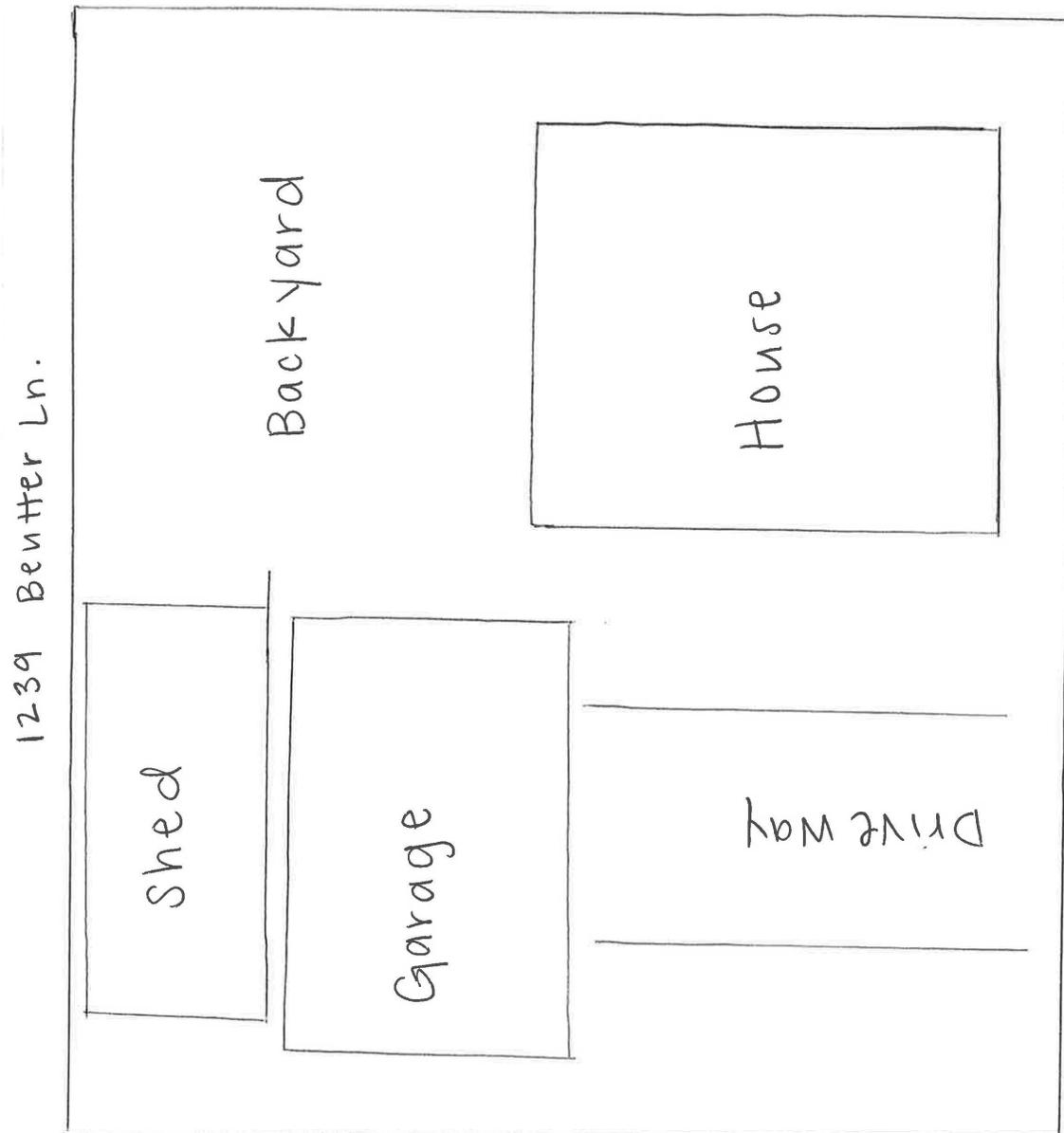


---

**Staff Recommendation**

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

Proposed Site Plan



### Criteria for Decision Making: Variance(s)

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

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

Placing a detached accessory building within the required setback may lead to maintenance issues that could affect the public health, safety, 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**

The location of the accessory building within the setback limits may affect the use and value of adjacent property values. Setbacks are established to ensure adequate light, air, and access to the proposed structure and adjacent properties.

**(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 zoning ordinance would not result in practical difficulties in the use of the property. There is adequate space in the back yard to accommodate the required 5' setback.

**(4) The variance granted is the minimum necessary**

The variance proposed is not the minimum necessary to utilize the property to its fullest extent. The use and operation of the accessory building can still be utilized while placed in its proper location.

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

The variance requested is to allow the accessory building to remain in the existing condition, which was constructed on the property without the appropriate permits or approvals from the building department.

### Analysis & Recommendation

**Analysis:** There are no practical difficulties that prevent the petitioner from placing the accessory building 5' from the property line.

**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: 1343 LASALLE AVE  
Owner: EMILY WANG AND GEOFF CEBULA

---

**Project Summary**

To install a privacy fence within the established corner yard.

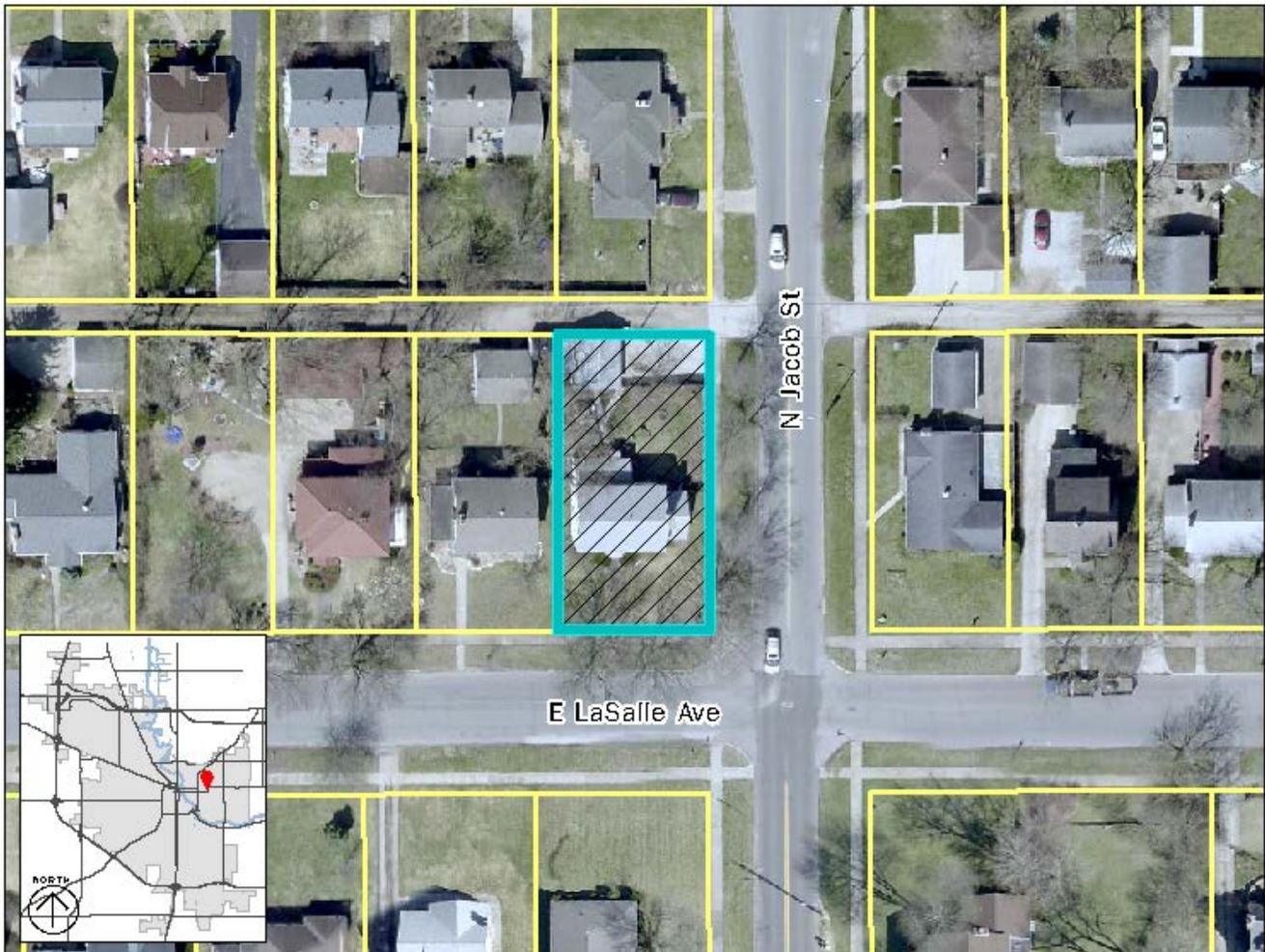
---

**Requested Action**

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

---

**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**

Approval of the fence would be injurious to the public health, safety, and morals of the community. The establishment of a privacy fence in close proximity to the sidewalk negatively impacts the general welfare of the community by adversely impacting the pedestrian experience.

**(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**

Placing the 6' closed fence in close proximity to the sidewalk creates an unpleasant experience for pedestrians along Jacob Street. Allowing a privacy fence in an established corner yard may also adversely impact the value of adjacent properties within the same block and adversely impact the character of the neighborhood as a whole.

**(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 zoning ordinance would not result in practical difficulties in the use of the property. Placing the fence in the allowed location would not limit the use of the backyard.

**(4) The variance granted is the minimum necessary**

The variance proposed is not the minimum necessary to utilize the property to its fullest extent. The same security and privacy can be achieved by placing the privacy fence in its allowed location.

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

The variance is being requested in order to correct a hardship caused by the current owner. The fence was installed without the appropriate permit. If a permit was requested before the fence was installed, the property owner would have been aware of the development standards.

## 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 ordinances. If a Building permit was sought before the construction of the new fence, the applicant would have been aware of the zoning regulation.

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