

# City of South Bend

## BOARD OF ZONING APPEALS

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### AGENDA

Tuesday, July 6, 2021 - 4:00 p.m.

County-City Building

Fourth-Floor Council Chambers

For virtual option: [www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

#### PUBLIC HEARING:

- Location:** 3806 BELLE VISTA ST BZA#0063-21  
**Owner:** VICTOR P HUNT  
**Requested Action:** Variance(s): 1) From the 3' maximum privacy fence height in an established corner yard to 6'  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 4316 JADE CROSSING DR BZA#0064-21  
**Owner:** RICARDO AND RITA HERRERA  
**Requested Action:** Variance(s): 1) From the 3' maximum fence height in an established corner yard to 6'  
**Zoning:** S1 Suburban Neighborhood 1
- Location:** 1448 SUNNYMEDE AVE BZA#0067-21  
**Owner:** ZACHARY W & KAITLYN M LESH  
**Requested Action:** Variance(s): 1) From the 3' maximum fence height in the established front yard to 6'  
**Zoning:** U1 Urban Neighborhood 1
- Location:** 2801 WESTERN AVE BZA#0066-21  
**Owner:** CARL JR & JAYNE SUE WILLIAMS  
**Requested Action:** Variance(s): 1) To allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way; and 2) From the 60% minimum transparency on the front facade and 20% minimum transparency on the corner facade to the existing windows  
**Zoning:** NC Neighborhood Center
- Location:** 1705 SOUTH BEND AVE BZA#0065-21  
**Owner:** IRISH DREAMS INC  
**Requested Action:** Variance(s): 1) From the maximum height of 40' and 3 stories to 61' and 5 stories  
**Zoning:** U3 Urban Neighborhood 3

#### 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.

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**Property Information**

Location: 3806 BELLE VISTA ST  
Owner: VICTOR P HUNT

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**Project Summary**

To install a privacy fence on a corner lot.

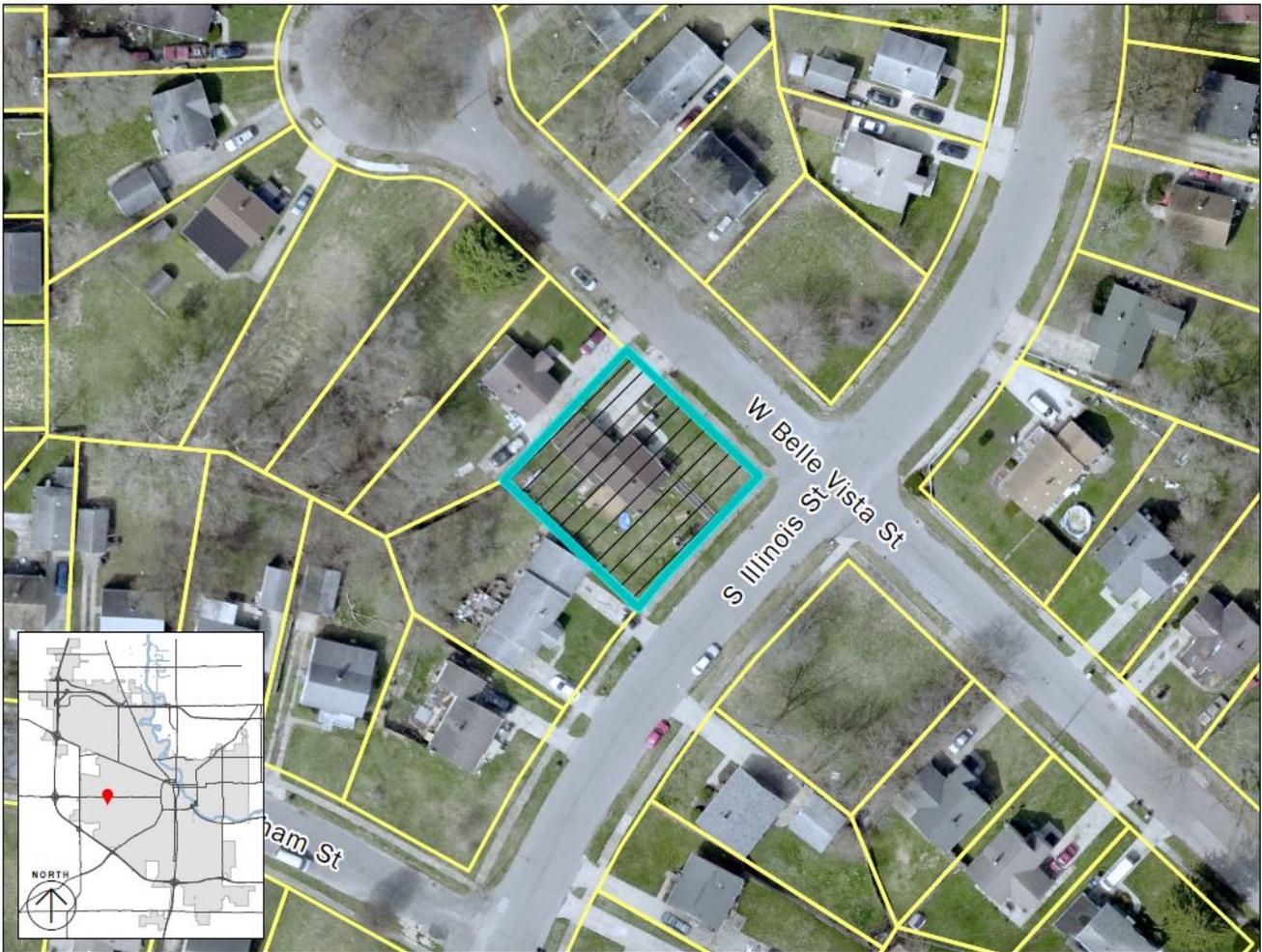
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**Requested Action**

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

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**Site Location**



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**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. The approval of this variance may not be injurious to the public health or safety of the community as long as 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 proposed fence is out of character with the area, which could have an impact on the value of surrounding properties. Houses in this neighborhood are set back a considerable distance with the expectation that fences will not be placed in an established 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 terms of this Chapter would not result in practical difficulties in the use of the property. A shorter, code compliant fence can still provide security and privacy of the property.

**(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 different fence option or provide more significant setbacks. The minimum building setback in this district is 15'. Considering a house could be placed at that setback, it would be reasonable to deem this as the minimum necessary to address any issues resulting from being located on a corner lot.

**(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 lot is a typical corner lot with no unique features differentiating it from other corner lots. The rear of the property is slightly undersized, however this is not uncommon in urban residential areas.

## Analysis & Recommendation

**Analysis:** There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is out of character for the area and not consistent with the intent of the ordinance. If approved, making it subject to a 15' setback would be appropriate since that would be the setback for a home on the adjacent lot. This slight variance would allow for expanding the portion of the yard behind a privacy fence while not significantly negatively affecting the pedestrian experience.

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

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**Property Information**

Location: 4316 JADE CROSSING DR  
Owner: RICARDO AND RITA HERRERA

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**Project Summary**

To install a semi privacy fence installed around a corner lot.

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**Requested Action**

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

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**Site Location**



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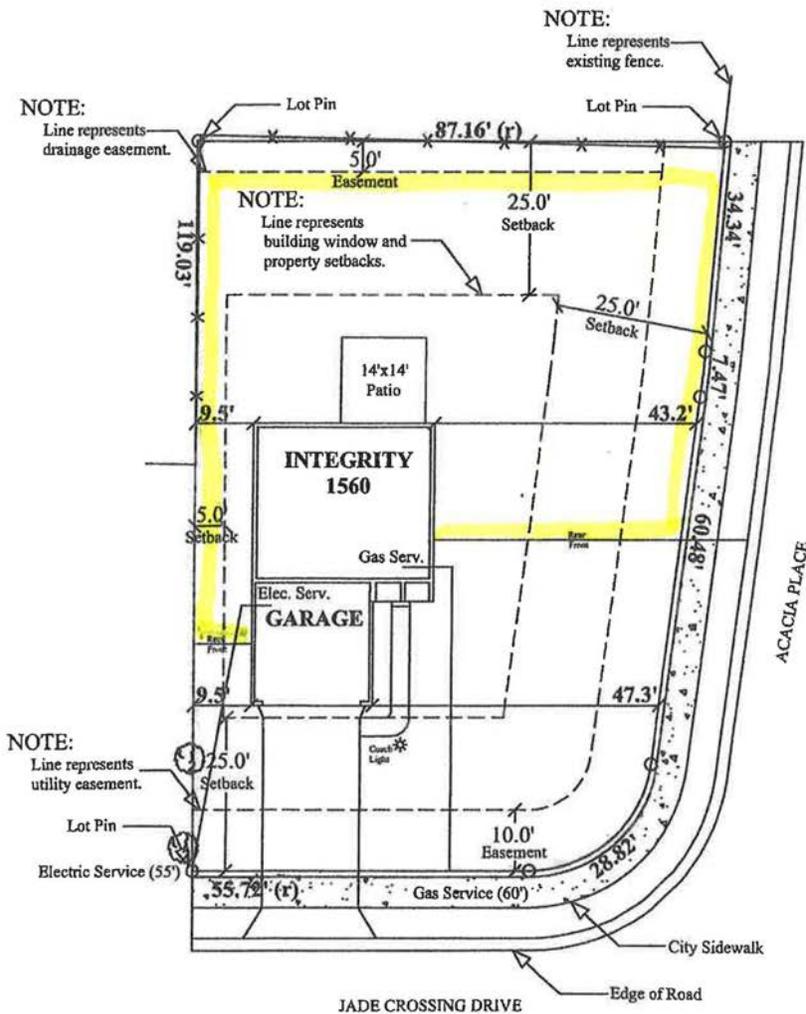
**Staff Recommendation**

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

Proposed Site Plan

Preliminary site layout approval showing the tentative or approximate placement of the home subject to (i) all rights reserved to the builder under the Building Agreement, as amended or revised, and (ii) all other items (including additional easements existing pursuant to recorded documents or otherwise) reflected in or excluded or exempted from any title insurance commitment covering the property

*[Signature]* Date: 5.17.19  
*[Signature]* Date: 5.17.19



Scale: 1" = 20'-0"  
 Date: May 13, 2019  
 Front Yard: 3390 sqft  
 Rear Yard: 5250 sqft  
 Lot Coverage: 13.8%

**SITE PLAN**  
 LOT #53 JADE CROSSING  
 4316 JADE CROSSING DRIVE  
**ALLEN EDWIN HOMES**  
 2186 EAST CENTRE  
 PORTAGE, MI 49002



## 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 or safety of the community as long as 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, specifically along Acacia Place, could be affected in an adverse manner if the fence is placed directly along the property line. This would create an inhospitable pedestrian environment along the sidewalk as well as creating the impression of a blank surface along the entirety of the block.

**(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 shorter, code compliant fence can still provide security and privacy of the property.

**(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 different fence option or provide more significant setbacks. The minimum corner setback in this district is 15'. Considering a house could be placed at that setback, it would be reasonable to deem this as the minimum necessary to address any issues resulting from being located on a corner lot.

**(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 orientation and location of the home is what creates the need to extend the 6' fence beyond the front and corner building line.

## 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. If approved, making it subject to a 15' setback would be appropriate since that would be the setback for a home on the adjacent lot. This slight variance would allow for expanding the portion of the yard behind a privacy fence while not significantly negatively affecting the pedestrian experience.

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

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**Property Information**

Location: 1448 SUNNYMEDE AVE  
Owner: ZACHARY W & KAITLYN M LESH

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**Project Summary**

To replace the fence (chain link 5') with a 6' privacy wood fence.

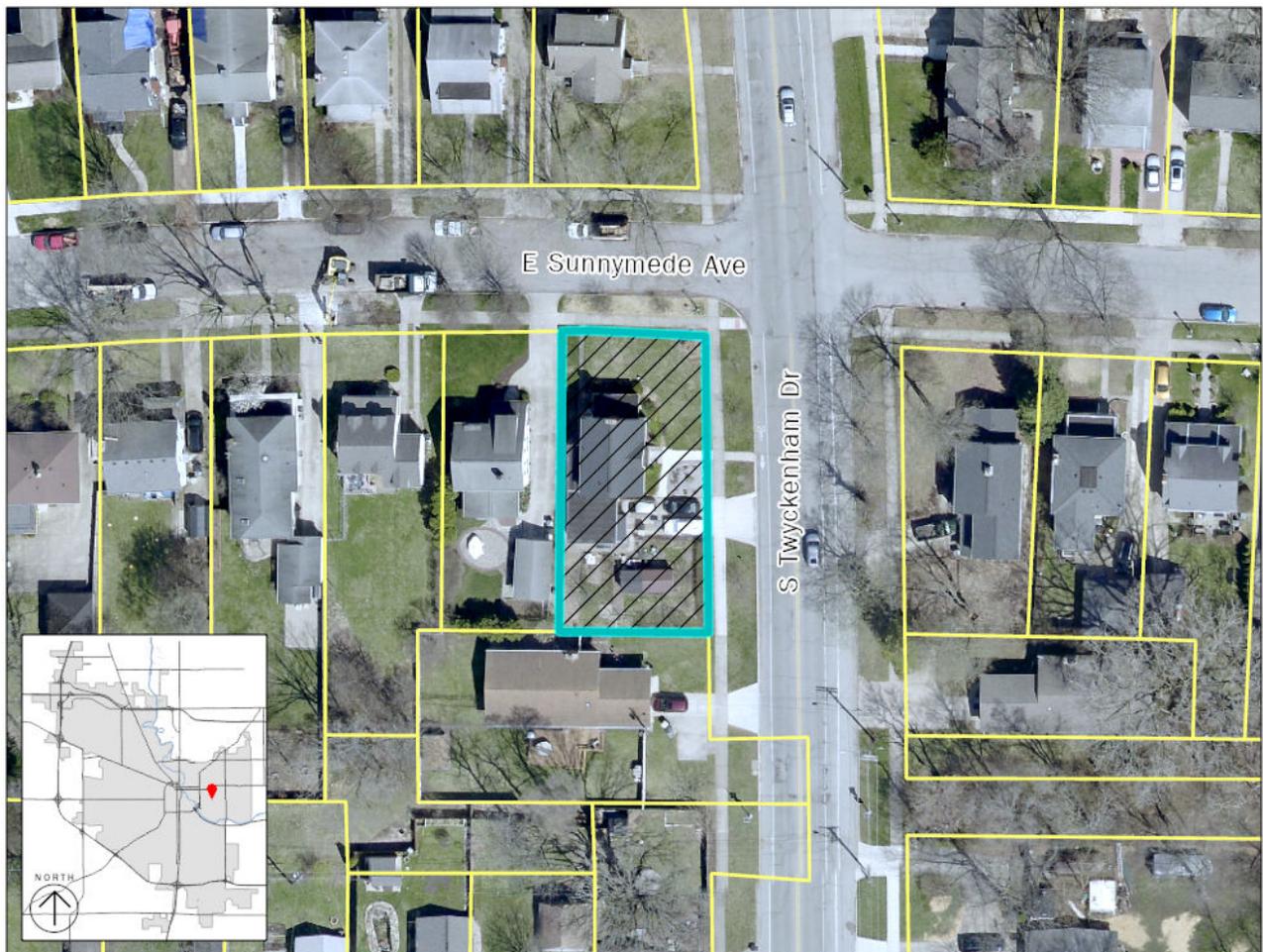
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**Requested Action**

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

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**Site Location**

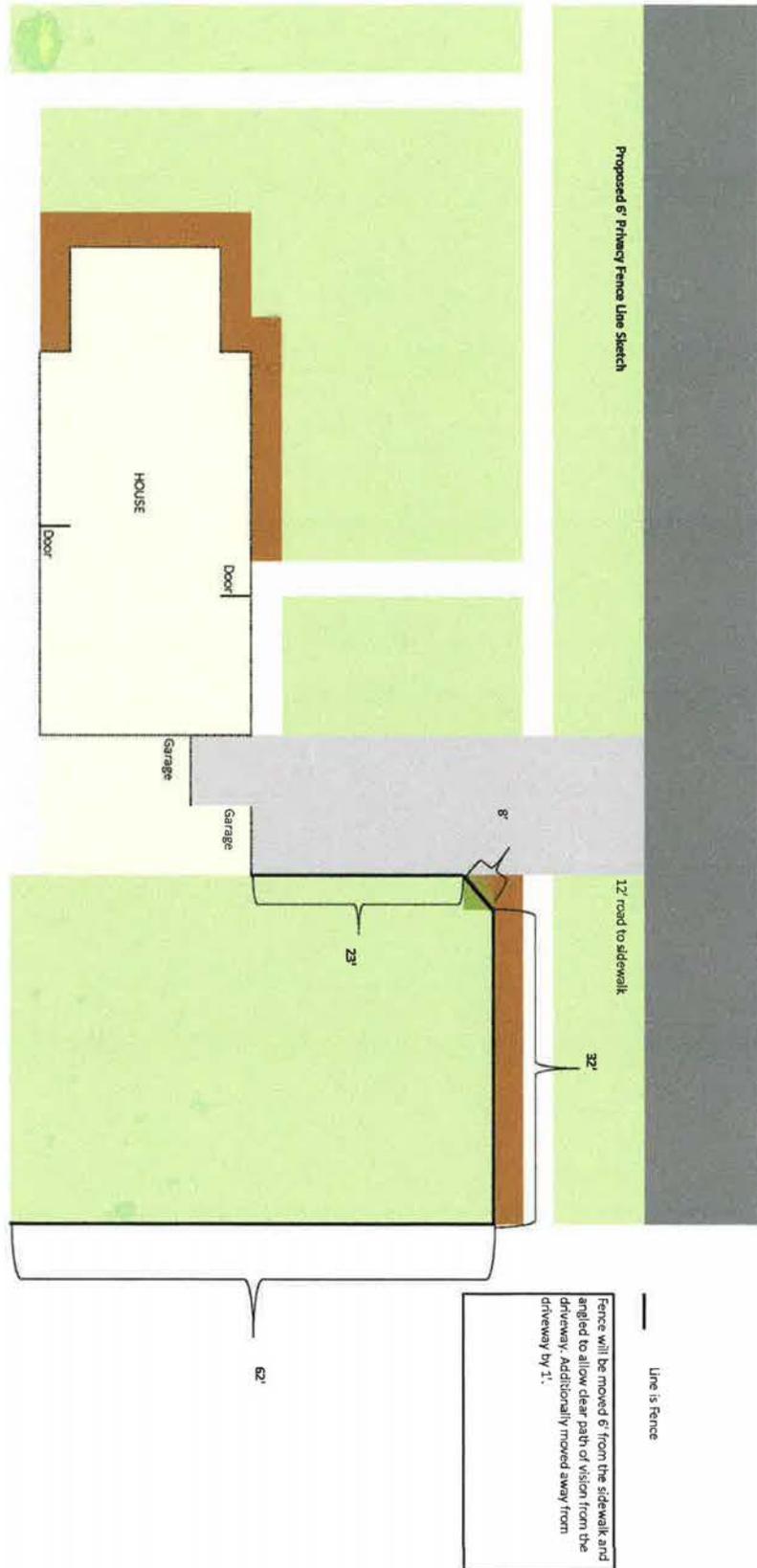


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**Staff Recommendation**

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. The approval of this variance may not be injurious to the public health or safety of the community as long as 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 proposed fence is out of character with the area, which could have an impact on the value of surrounding properties. Houses in this neighborhood are set back a considerable distance with the expectation that fences will not be placed in an established 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 terms of this Chapter would not result in practical difficulties in the use of the property. A shorter, code compliant fence can still provide security and privacy of the property. Aesthetic preference is not a 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 utilize a different fence option or position the privacy fence in compliance with 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 lot is a typical corner lot with no unique features differentiating it from other corner lots.

## Analysis & Recommendation

**Analysis:** There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is out of character for the area and not consistent with the intent of the ordinance. The fence could be moved to its permitted location while still providing a similarly sized fully fenced in location as other surrounding properties in the neighborhood.

**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: 2801 WESTERN AVE  
Owner: CARL JR & JAYNE SUE WILLIAMS, Aaron Wills

**Project Summary**

Used auto sale.

**Requested Action**

Variance(s): 1) To allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way  
2) From the 60% minimum transparency on the front facade and 20% minimum transparency on the corner facade to the existing windows

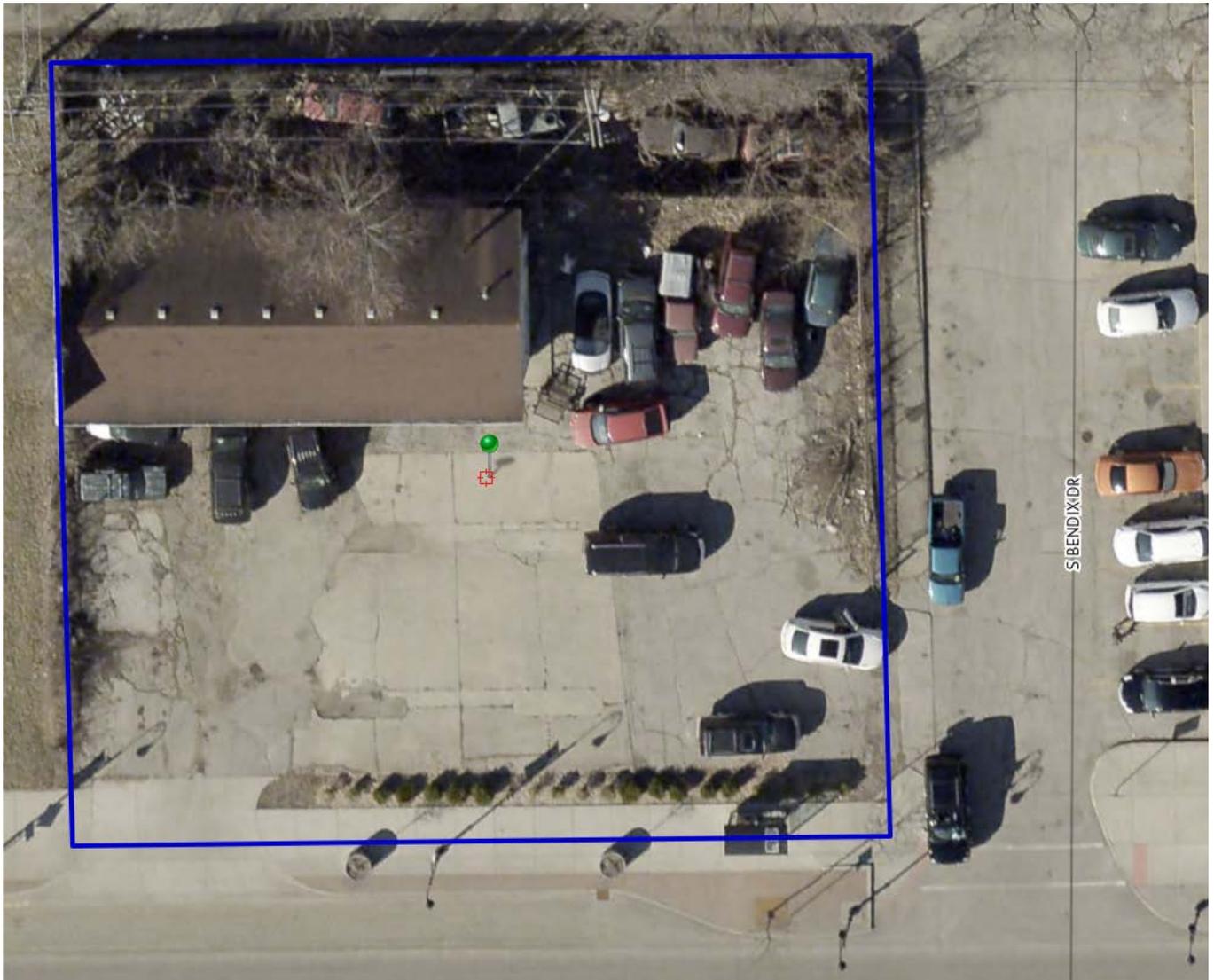
**Site Location**



**Staff Recommendation**

Based on the information provided prior to the public hearing, the staff recommends the Board approve 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**

With proper buffering in place and as the site is already configured in the manner proposed under the variances, approval 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**

Approval of the reduced transparency variance should not adversely affect the use and value of adjacent properties. The building already exists with the current level of transparency. With proper buffering in place, the variance for vehicle sales in the front yard should not adversely affect surrounding 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 allow for the property as its currently configured to operate a vehicle sales location as approved by the Council.

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

The variance granted is the minimum necessary for the property to operate as a vehicle sales location as approved by the Council.

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

The zoning regulations mandating minimum transparency levels and prohibiting vehicles displayed in the front yard both postdate the construction and placement of the building.

## Analysis & Recommendation

**Analysis:** The variances requested are related to an existing building being located on the lot in conflict with the NC Neighborhood Center District. The South Bend Common Council has approved a Special Exception for the sale of vehicles on this property. With that Special Exception received, it is proper to assume that needed variances are reasonable considering the existing physical conditions of the site.

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

**Property Information**

Location: 1705 SOUTH BEND AVE  
Owner: IRISH DREAMS INC, Chris Gormley

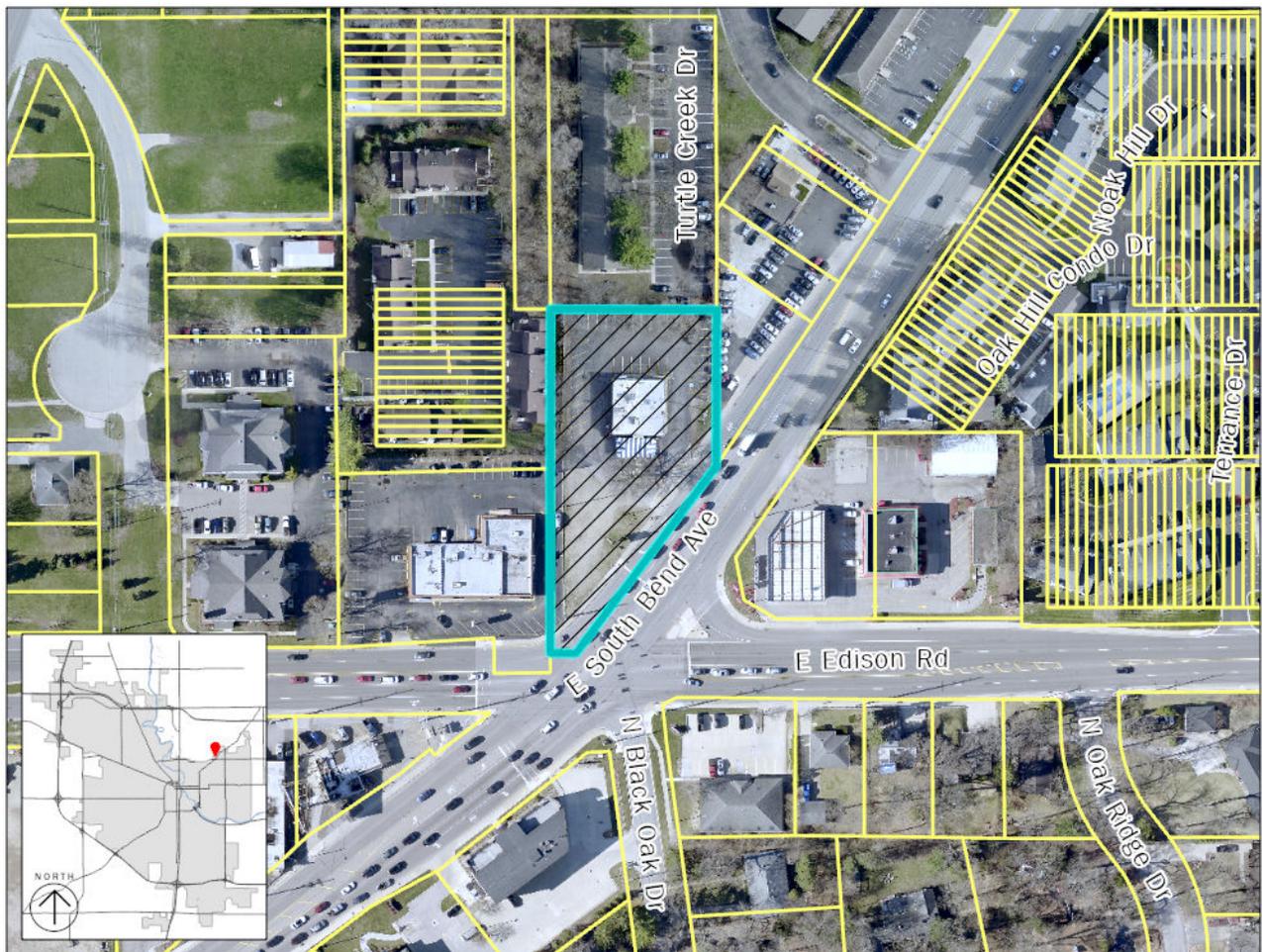
**Project Summary**

Development of a multi-story mixed use multi-family project with commercial/retail at the main level along with a podium that houses covered parking vehicles.

**Requested Action**

Variance(s): 1) From the maximum height of 40' and 3 stories to 61' and 5 stories

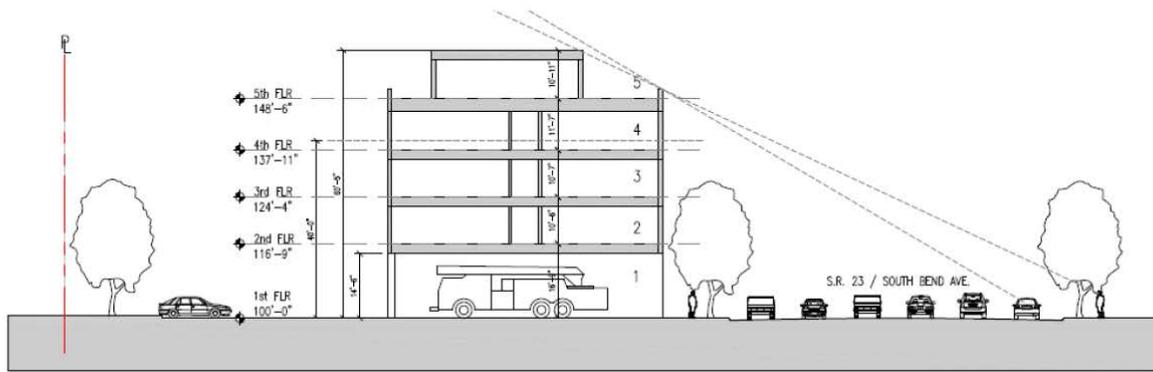
**Site Location**



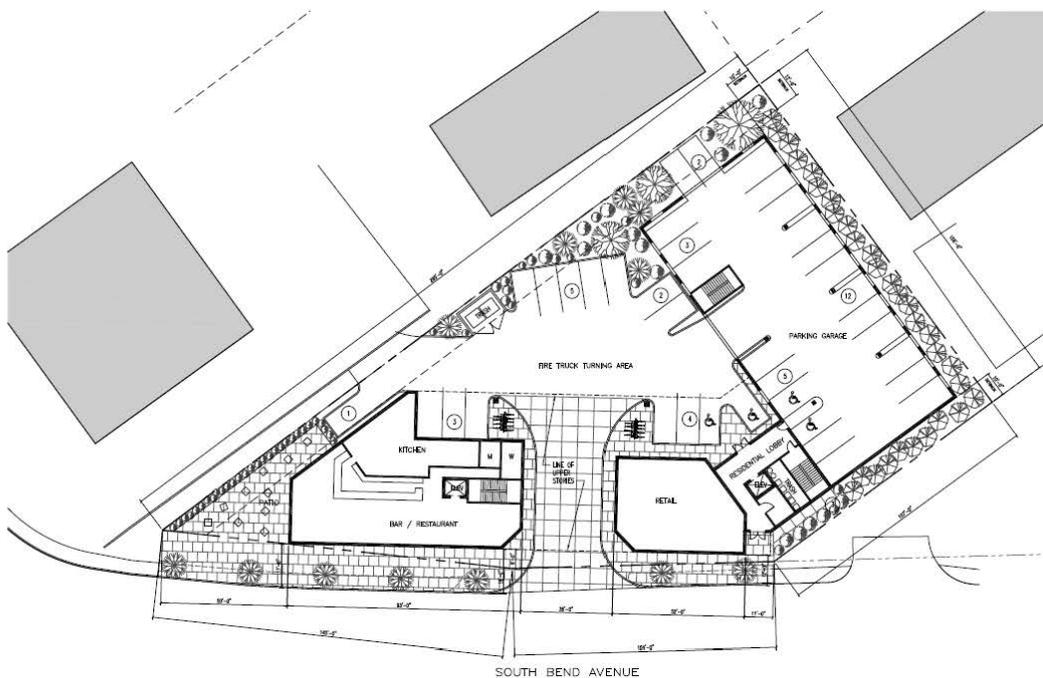
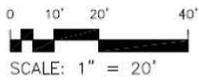
**Staff Recommendation**

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance, subject to limiting the fifth floor to the south-eastern wing of the building along State Road 23.

Proposed Site Plan



CROSS SECTION THRU SITE LOOKING NORTH



1 GROUND FLOOR PLAN  
SCALE: 1/8" = 1'-0"



**KIL**  
ARCHITECTURE  
P.C.A.# 20183  
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2ND FLOOR SUITE 111  
CHICAGO, IL 60604  
ORDINARY A. KIL  
WARD A. KIL  
ARCHITECTS  
374.288.2864  
FAX: 312.312.4233  
www.kilarch.com

**PRELIMINARY**  
CONSTRUCTION  
DATE: 7/15/2021

1705 SOUTH BEND AVE  
MIXED USE  
DEVELOPMENT

**SCHEME B**  
1ST FLOOR &  
SITE PLAN

DATE: June 16, 2021  
VARIANCE SUBMITTAL

REVISIONS:

**A1**

## 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**

State Road 23 is a main commercial corridor into the city. A height increase in this area should not affect 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**

Because the site is located in an area with no S1, U1, or U2 zoning, the proposed variance should not adversely affect the use or value of adjacent properties. The proposed use is predominately consistent with the standards of the NC District. The site is surrounded by commercial and multiunit residential uses. The extensive right-of-way width of State Road-23 makes a building at this height reasonable. Consideration should be given to the multiunit residential west and north of the site by limiting the use of the rooftop features.

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

The site geometry and constrained access create a practical difficulties for the property. The width of the street, as well as the volume of traffic along the corridor, increases the difficulties of developing the site. In order the accommodate access and maneuvering for the emergency vehicles, the building footprint of the site is limited unless a podium construction method is utilized.

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

The proposed development is consistent with the intent of the NC District and the Ordinance. The building was designed to minimize the appearance of the upper floor from the public right-of-way.

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

The shape of the property and the width of the adjacent right of way was not created by the current or previous owner.

## Analysis & Recommendation

**Analysis:** The unique shape and topography of the property, as well as being located along a significant corridor with a wide right-of-way, creates a hardship in developing the site in a manner consistent with the intent of the NC Neighborhood Center District. The variance requested will allow for a mixed-use urban development along a major corridor of the City.

**Staff Recommendation:** Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance, subject to limiting the five story area to the south-eastern wing of the building along State Road 23.