

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, June 8, 2020 - 4:00 p.m.
Howard Park Event Center
219 S. St. Louis Blvd; South Bend, IN 46617

PUBLIC HEARING:

GROUP 1: 4:00 PM

- Location:** 907 PORTAGE AVE and 907 1/2 PORTAGE AVE BZA#0008-20
Owner: HOMETOWNE DEVELOPMENT LLC
Requested Action: Variance(s): 1) To allow a detached housing building type in NC Neighborhood Center
Zoning: NC Neighborhood Center
- Location:** SOUTHWEST CORNER OF WAYNE ST & MICHIGAN ST BZA#0012-20
Owner: ST JOSEPH COUNTY PUBLIC LIBRARY
Requested Action: Variance(s): 1) From the 60% minimum transparency on the ground floor and 15% on the upper floors to 55% on the ground floor of Wayne Street, 20% on the ground floor of Michigan Street, and 13% on the 3rd floor of the Wayne Street elevation; and 2) From the 100' maximum distance between entries to 164'
Zoning: DT Downtown
- Location:** 529 DUBAIL AVE, 531 DUBAIL AVE, and 1613 RUSH ST BZA#0014-20
Owner: SCHULKE KELLEY
Requested Action: Variance(s): 1) From the 3' fence height on a corner lot to 6' privacy fence
Zoning: U1 Urban Neighborhood 1

GROUP 2: 4:20 PM

- Location:** 211 EDDY ST BZA#0015-20
Owner: EDDY PROPERTY DEVELOPMENT LLC (The South Bend Clinic)
Requested Action: Variance(s): 1) From the maximum 1 sign per building with a maximum of 40 sq.ft. to 3 signs on the north elevation totaling 512 sq.ft., 1 sign on the east totaling 73 sq.ft.; 1 sign on the south elevation totaling 64 sq.ft., and 1 sign on the east elevation totaling 63 sq.ft.;
Zoning: NC Neighborhood Center
- Location:** 1004 EDDY BZA#0016-20
Owner: UNIVERSITY OF NOTRE DAME DU LAC
Requested Action: Variance(s): 1) From the 4' maximum height for a fence in an established front yard to 5'
Zoning: NC Neighborhood Center

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

GROUP 3: 4:40 PM

6. **Location:** 3610 KELLER ST BZA#0011-20
Owner: East Side Baseball Softball Association Inc.
Requested Action: Variance(s): 1) From the minimum 25' front setback to 5'
Special Exception: a parking lot in a S1 Suburban Neighborhood 1 District
Zoning: S1 Suburban Neighborhood 1
7. **Location:** 817 ELMER ST BZA#0013-20
Owner: MAEFIELD MELINDA S
Requested Action: Special Exception: a day care center in a U1 Urban Neighborhood 1 District
Zoning: U1 Urban Neighborhood 1

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – March 2, 2020
2. Minutes – March 2, 2020
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: 907 PORTAGE AVE and 907 1/2 PORTAGE AVE
Owner: HOMETOWNE DEVELOPMENT LLC

Project Summary

Build two single detached houses next to each other on currently vacant lots that previously had single family residential units on them in the past. This is part of our ongoing work to develop Portage Midtown.

Requested Action

Variance(s): 1) To allow a detached housing building type in NC Neighborhood Center

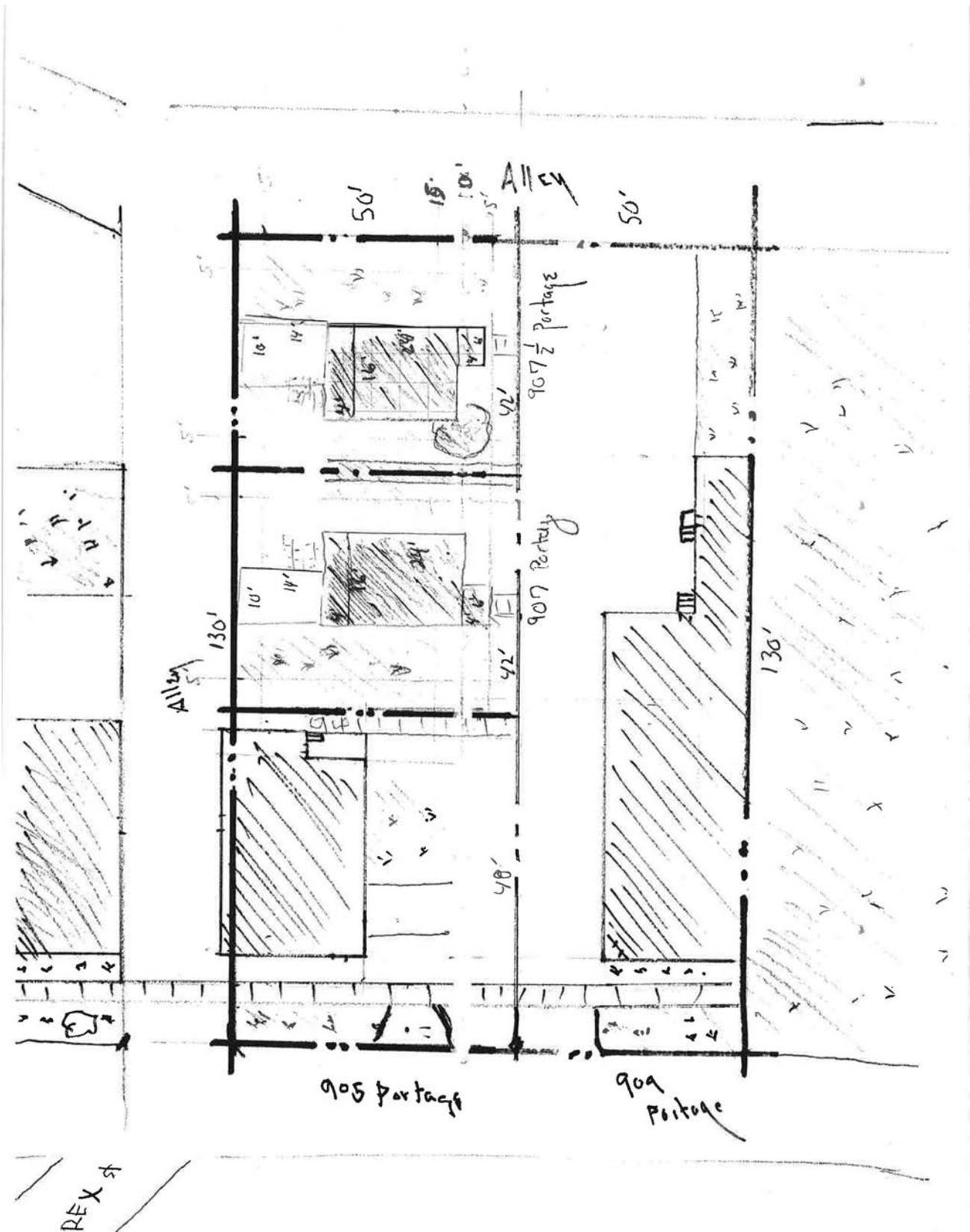
Site Location



Staff Recommendation

Based on the evidence available 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

Allowing detached housing units on these parcels should lead to a further stabilization of the neighborhood by utilizing two vacant parcels to build on the positive developments happening in the nearby neighborhood. These homes 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

The uses surrounding these two properties are primarily detached housing. Allowing detached houses to be constructed on these parcels should not adversely affect the use or value of the nearby 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 Zoning Ordinance would not allow these parcels to be used as originally platted. With an existing detached house separating these lots from the street, these lots are unlikely to develop as retail or other commercial uses.

(4) The variance granted is the minimum necessary

Allowing single detached housing is the minimum necessary variance for the project to proceed. There are two individually platted lots once occupied by detached houses.

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

Historically, these properties were occupied by detached single family homes. The hardship created by the zoning classification and orientation of the lots was not created by the current or former owners of the property.

Analysis & Recommendation

Analysis: While zoned Neighborhood Center, there is an existing residential structure that separates these lots from Portage Avenue. Allowing the reconstruction of detached housing where they previously existed will be consistent with the character of the neighborhood and help in the continuing efforts to build new housing in the City of South Bend.

Staff Recommendation: Based on the evidence available prior to the public hearing, the staff recommends the Board approve the variance, as presented.

Property Information

Location: Southwest Corner of Wayne Street & Michigan Street
 Owner: ST JOSEPH COUNTY PUBLIC LIBRARY

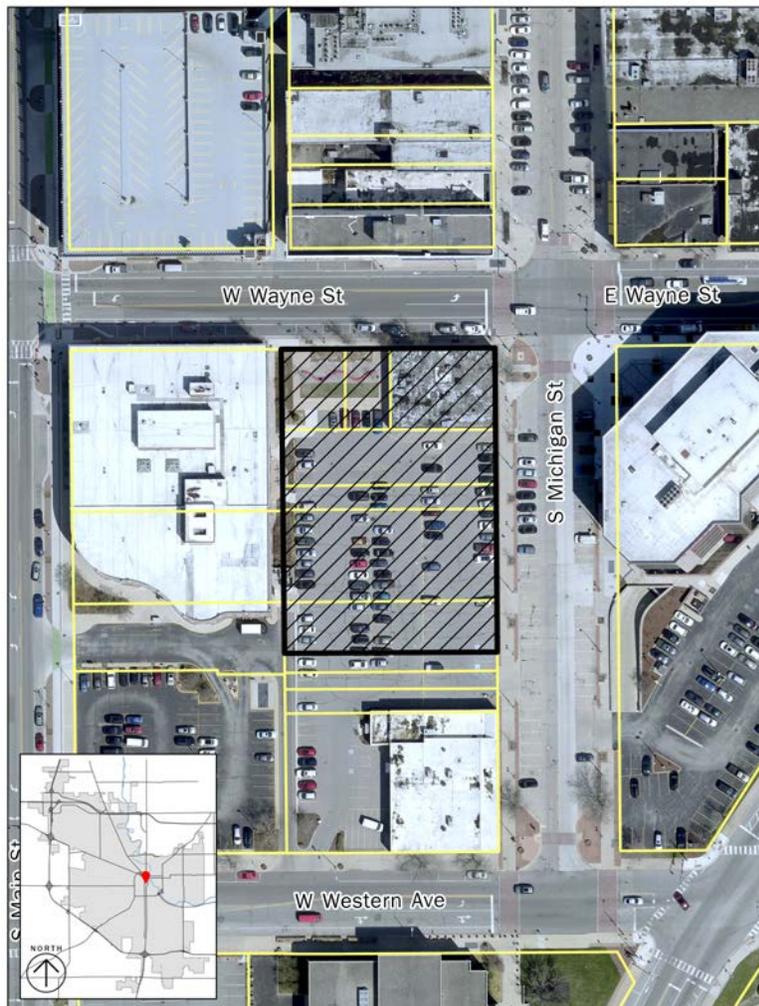
Project Summary

To allow the construction of a new public library building on the SW corner of Jefferson and Michigan to compliment the current downtown library location and add more services for the public.

Requested Action

Variance(s): 1) From the 60% minimum transparency on the ground floor and 15% on the upper floors to 55% on the ground floor of Wayne Street, 20% on the ground floor of Michigan Street, and 13% on the 3rd floor of the Wayne Street elevation
 2) From the 100' maximum distance between entries to 164'

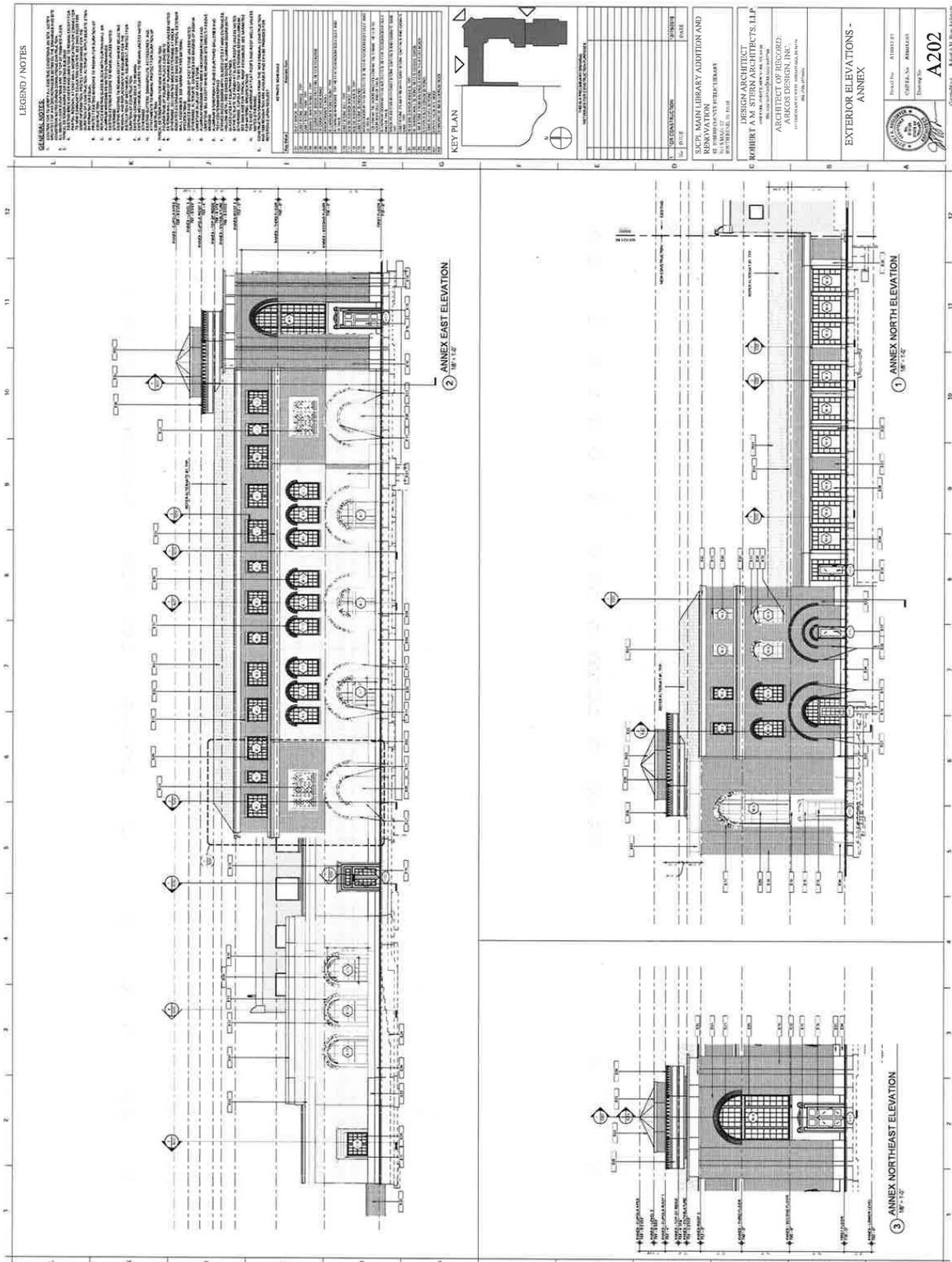
Site Location



Staff Recommendation

Based on the evidence available 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

The approval of the variances should allow the library to further expand in a way that should be beneficial to downtown and the community at large. The variances should not be injurious to public health, safety, morals and general welfare.

(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 expansion of the library should help stabilize the 300 Block of South Michigan while robust. The character of the building design and variances requested should affect nearby properties in a beneficial manner.

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

The distance of 100' maximum between doors provides difficulties for the uses proposed at the expanded library site including large public meeting spaces and an auditorium. The function of a civic building, as opposed to a retail or dining establishment, create practical difficulties of strict application of transparency and entrance requirements of the Ordinance.

(4) The variance granted is the minimum necessary

As a civic space, the building's design must take into account certain aspects such as security and internal flow of the building that are different from a retail orientated building with multiple storefronts. The consequence of these aspects results in a design that minimizes the number of entrances and outward transparency into a space. Both the distance between doors and the transparency requested are the minimal necessary from the Zoning Ordinance while still allowing the site to function as needed.

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

The civic nature of the library building is inherent in its use and not something that is correcting a hardship. The specific uses of the site being large meeting spaces, an auditorium, and other public uses have led to a design of the building with these specific variances needed.

Analysis & Recommendation

Analysis: Large civic spaces such as libraries require special consideration due to their uses not being traditional retail or restaurant space that normally occupy DT Downtown District zoned parcels. With three street frontages, there is limited options for location of large event spaces designed to serve the public. The function of these spaces dictate fewer doors and windows.

Staff Recommendation: Based on the evidence available prior to the public hearing, the staff recommends the Board approve the variance, as presented.

Property Information

Location: 529 DUBAIL AVE and 1613 RUSH ST and 533 DUBAIL AVE
Owner: KELLEY SCHULKE

Project Summary

To allow a privacy fence around a corner lot.

Requested Action

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

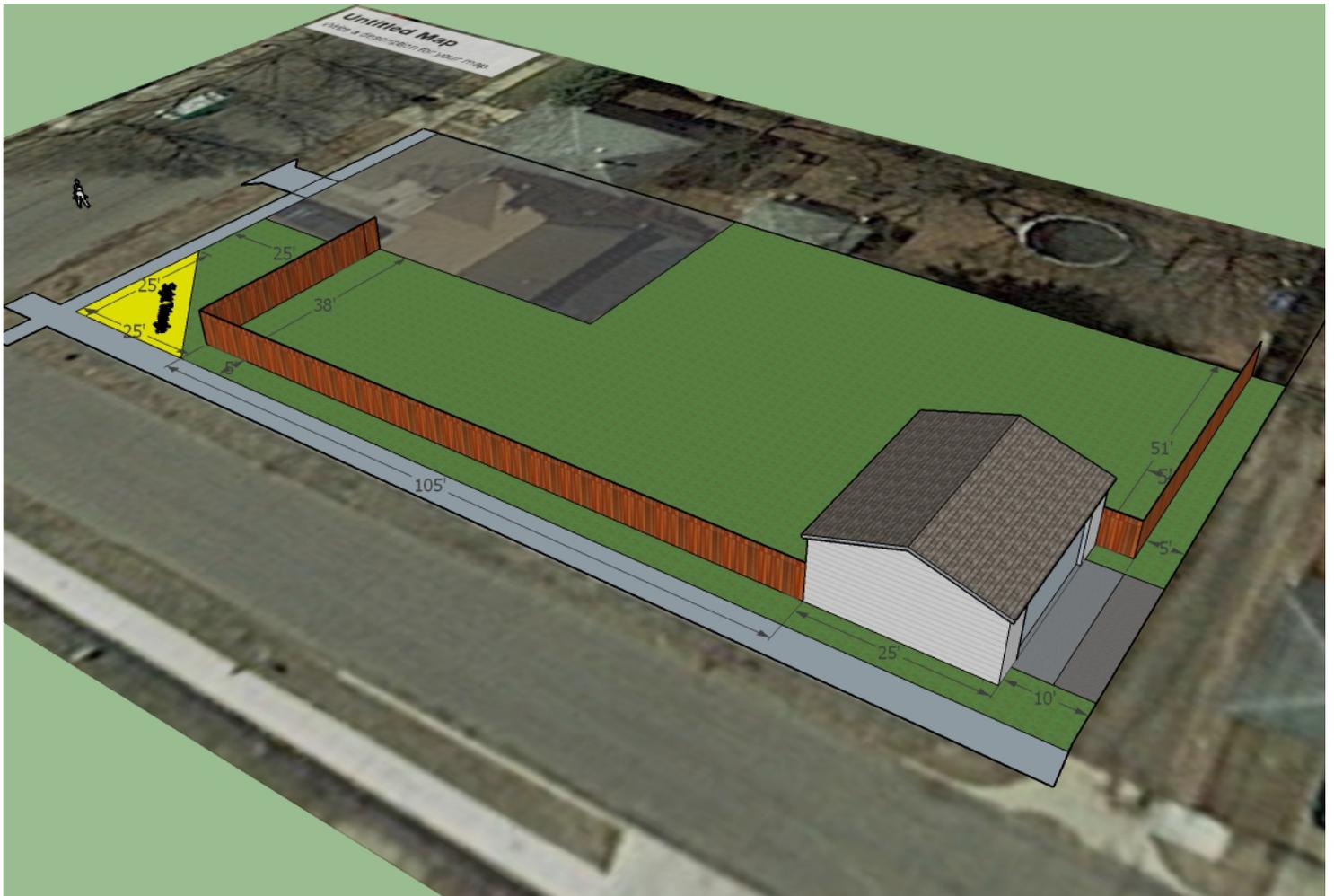
Site Location



Staff Recommendation

Based on the evidence provided prior to the public hearing, the staff recommends the Board approve the variance subject to a 10' setback from the property line on Rush Street.

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 setbacks, the proposed variances should not be injurious to the public health and safety 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

Like building setbacks, a proper setback of a fence (or limiting the height in an established front yard), is designed to maintain an open line of sight along a street frontage. Allowing a solid structure, such as a privacy fence, that interrupts or blocks the established front yard along a street can negatively impact the use and value of adjacent properties. It can also reduce the comfort and safety of pedestrians using the sidewalk.

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

Because of the location of the home as it relates to the corner of the property, strict application of the ordinance would limit the privacy fence to a very small portion of the lot creating some practical difficulties.

(4) The variance granted is the minimum necessary

The variance requested is not the minimum necessary in order to allow for use of the property. The staff suggests the privacy fence be setback a minimum of 10' from Rush Street in order to align with the required 10' minimum (corner) building setback for the property. The property is comprised of 3 lots, allowing for a sizable yard for an urban setting.

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

The demolition of the house on the corner lot created a situation where the petitioner's house is positioned further from the secondary street than would have been expected had the three lots been developed as one. This hardship was not created by the current or previous owners of the property.

Analysis & Recommendation

Analysis: Due to the location of the existing home, a lot removed from the corner street (Rush Street), approving a privacy fence in the established corner yard with a 10' setback from Rush Street would allow the property owner adequate use of the lot while meeting the intent of the Ordinance.

Staff Recommendation: Based on the evidence provided prior to the public hearing, the staff recommends the Board approve the variance subject to a 10' setback from the property line on Rush Street.

Property Information

Location: 211 EDDY ST
Owner: EDDY PROPERTY DEVELOPMENT LLC (The South Bend Clinic)

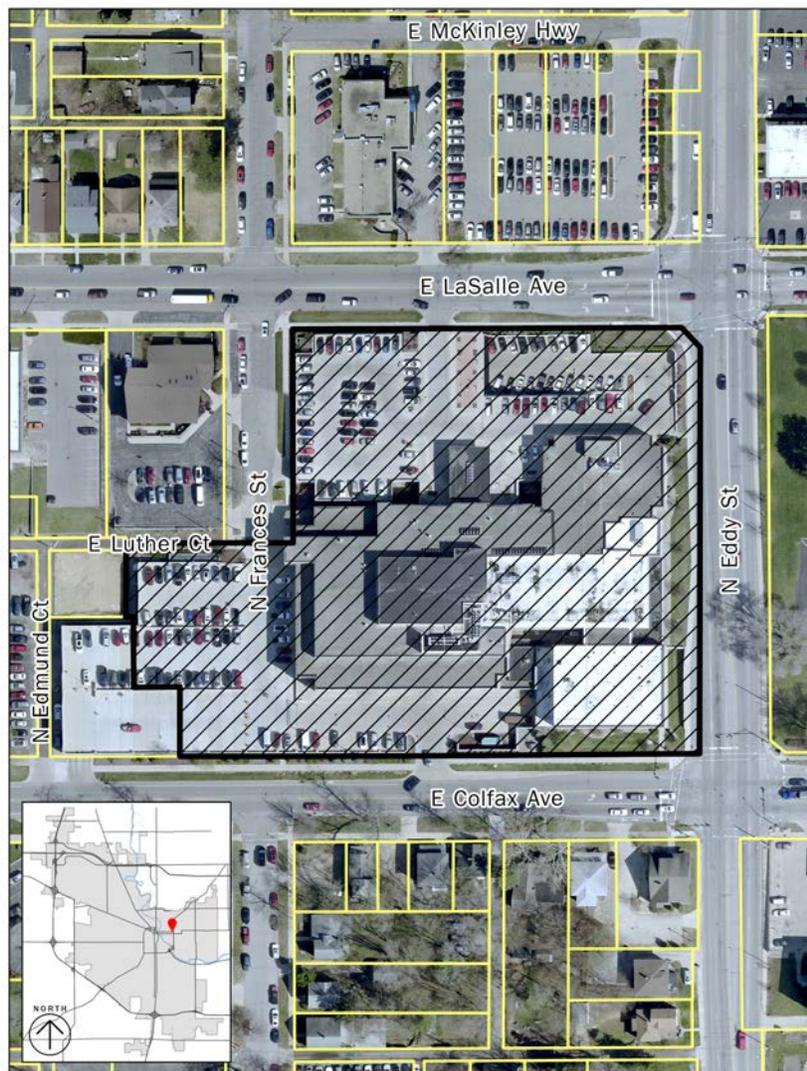
Project Summary

To allow new signs for the South Bend Clinic facility.

Requested Action

Variance(s): 1) From the maximum 1 sign per building with a maximum of 40 sq.ft. to 3 signs on the north elevation totaling 512 sq.ft., 1 sign on the east totaling 73 sq.ft.; 1 sign on the south elevation totaling 64 sq.ft., and 1 sign on the east elevation totaling 63 sq.ft.

Site Location



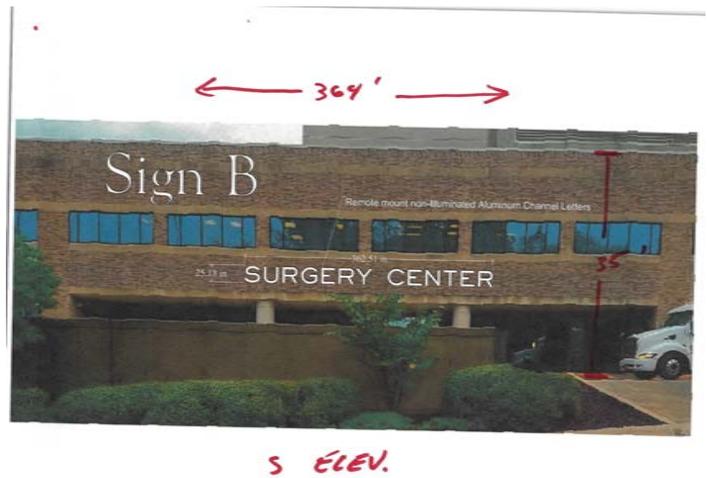
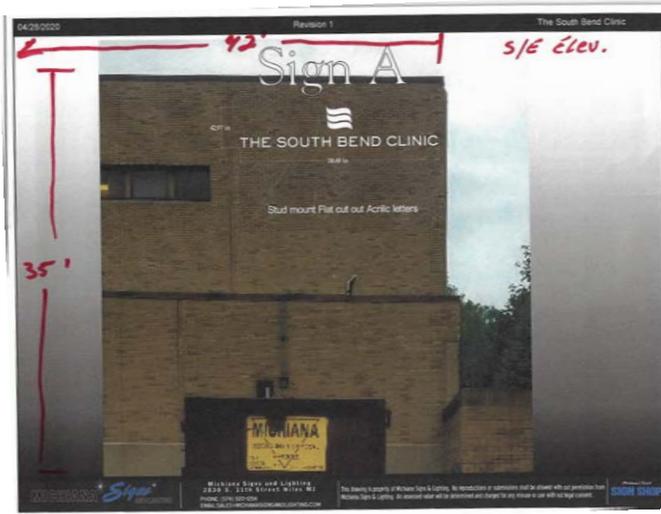
Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances, subject to a maximum of 2 signs totaling 380 sq.ft. on the northern elevation.

Proposed Site Plan



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 signs should not be injurious to the public health and safety 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 of the relative size of the signs in relation to the size of the building, the use and value of adjacent properties should not be affected.

(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 Northeast Neighborhood Zoning Overlay would only allow a small 40 square foot sign for this entire building. The size of the building and the need to identify the additional tenant (Riley Children's Hospital) create a practical difficulty in complying with the strict terms of the Ordinance.

(4) The variance granted is the minimum necessary

With the exception of Sign F (the electronic message board) on the north elevation, the proposed signs are the minimum necessary to update the existing signs and appropriately identify the addition of Riley Children's Hospital to the facility.

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

The Northeast Neighborhood Zoning Overlay was not in place at the time the building was constructed and did not contemplate multiple tenants within one building or a building of this size and nature.

Analysis & Recommendation

Analysis: Allowing The South Bend Clinic to replace their existing signs and add a sign identifying Riley Children's Hospital will ensure proper identification of the facility while meeting the intent of the Zoning Ordinance.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances, subject to a maximum of 2 signs totaling 380 sq.ft. on the northern elevation.

Property Information

Location: 1004 EDDY
Owner: UNIVERSITY OF NOTRE DAME DU LAC

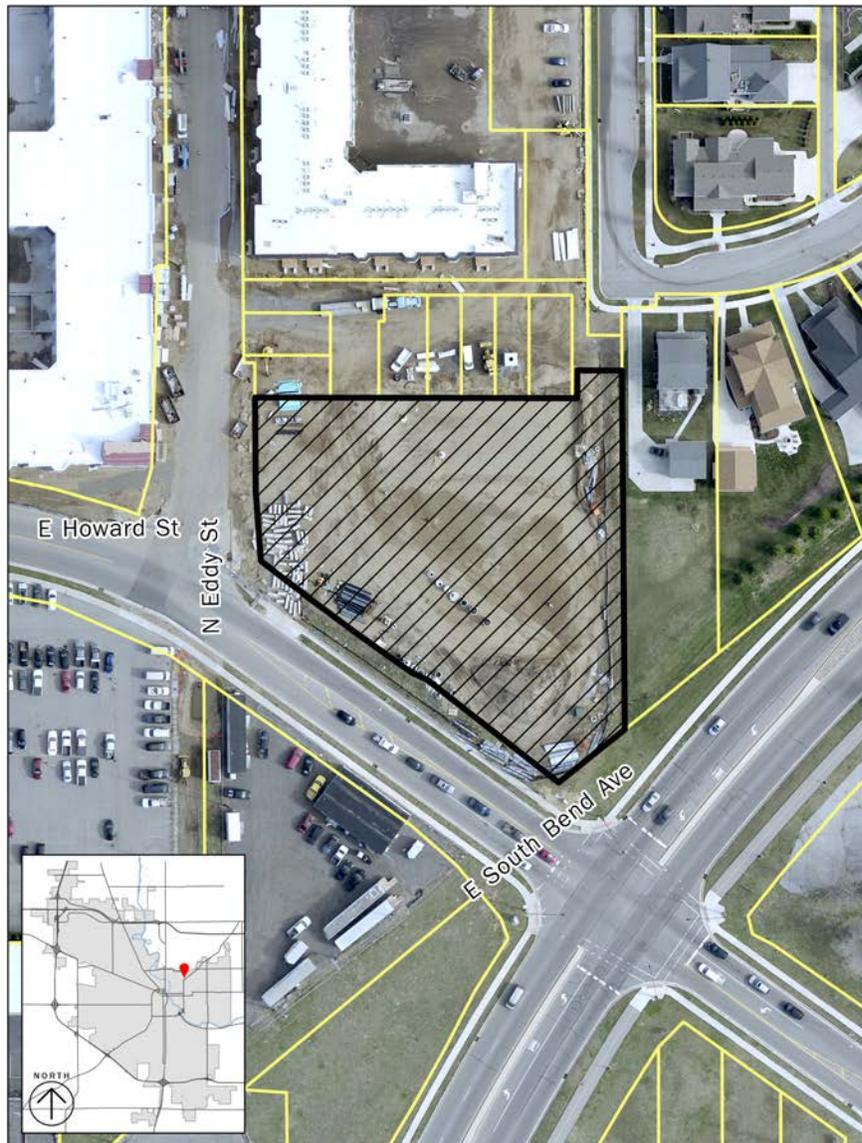
Project Summary

To fence in the playground area of the new Robinson Community Learning Center.

Requested Action

Variance(s): 1) From the 4' maximum fence height in an established front yard to 5'

Site Location



Staff Recommendation

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

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

Because of the design and the fact that it is setback a reasonable distance from State Road 23, the proposed 5' fence will not be injurious to the public health, safety, morals and general welfare of the community. It is designed to provide the children protection in a playground area which is bordered on two sides by busy streets.

(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 variance should not be affected in an adverse manner because it will be a high quality, ornamental fence consistent with other fences in the area

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

Because the property is oddly shaped and has multiple street frontages that limit the location of the playground area, strict application the Ordinance would result in practical difficulties in use of the property. A 4' fence would make it more difficult to supervise the children, as well as lead to easier unauthorized access from the outside.

(4) The variance granted is the minimum necessary

The 5' variance is the minimum height necessary to provide more security to playground.

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

The shape of the lot with multiple frontages was created when the State made improvements to the 5-point intersection of State Road 23, Corby and Howard.

Analysis & Recommendation

Analysis: Due to the nature of the use and the fact that the property has multiple frontages, the variance requested is appropriate for the area and consistent with the intent of the ordinance.

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: 3610 KELLER ST
Owner: East Side Baseball Softball Association Inc.

Project Summary

East Side is requesting to build a parking lot on six vacant lots currently zoned S1 Suburban Neighborhood 1 District.

Requested Action

Special Exception: a parking lot in a S1 Suburban Neighborhood 1 District
Variance(s): 1) From the minimum 25' front setback to 20'

Site Location



Staff Recommendation

Based on the evidence available prior to the public hearing, the staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation and approve the variance, as presented.

Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Use to allow:

a parking lot in a S1 Suburban Neighborhood 1 District

A Special Use 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;

Due to the rural nature of Keller Street it will not be injurious to the public health, safety, morals and general welfare of the community for the Special Exception for a parking lot to be granted. The removal of street parking on Keller Street and into a parking lot should increase safety and confusion coming into and leaving the little league facilities.

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

The proposed use will not injure or adversely affect the surrounding properties value. The use and value of surrounding properties may improve as the area would have increased ease of use. While zoned S1 Suburban Neighborhood 1, it is not surrounded by a traditional neighborhood setting. The property is surrounded by the baseball fields and vacant residential lots.

(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 majority of the area consists of the East Side Little League facilities and vacant land. The parking lot will be consistent with the character of the neighborhood and land uses therein.

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

This petition is consistent with the City Plan, South Bend Comprehensive Plan, Objective CB 7 which speaks to promoting and encouraging opportunities for the youth of South Bend while also enhancing South Bend's identity. The added parking lot will allow East Side Little League to provide more opportunities for the youth of the City.

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

Due to the rural nature of Keller Street, it will not be injurious to the public health, safety, morals and general welfare of the community for the reduced setback. Keller Street is a deadened street which reduces the need for the 25' setback.

(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 majority of surrounding properties are baseball facilities owned by the petitioner. The variance for the reduced front setback should not be 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

Due to the depth of the lots and nature of the street, strict application would create practical difficulties in the use of the property.

(4) The variance granted is the minimum necessary

The parking lot has been laid out in a manner to most efficiently use the existing area to minimize the variance request needed.

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

The rural nature of the street and it's general location is not a hardship created by the current or past owners of the property.

Analysis & Recommendation

Analysis: Due to the remote location of the facility, the proposed use and setback are appropriate for the area and consistent with the intent of the ordinance.

Staff Recommendation: Based on the evidence available prior to the public hearing, the staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation and approve the variance, as presented.

Property Information

Location: 817 ELMER ST
Owner: MELINDA S MAEFIELD

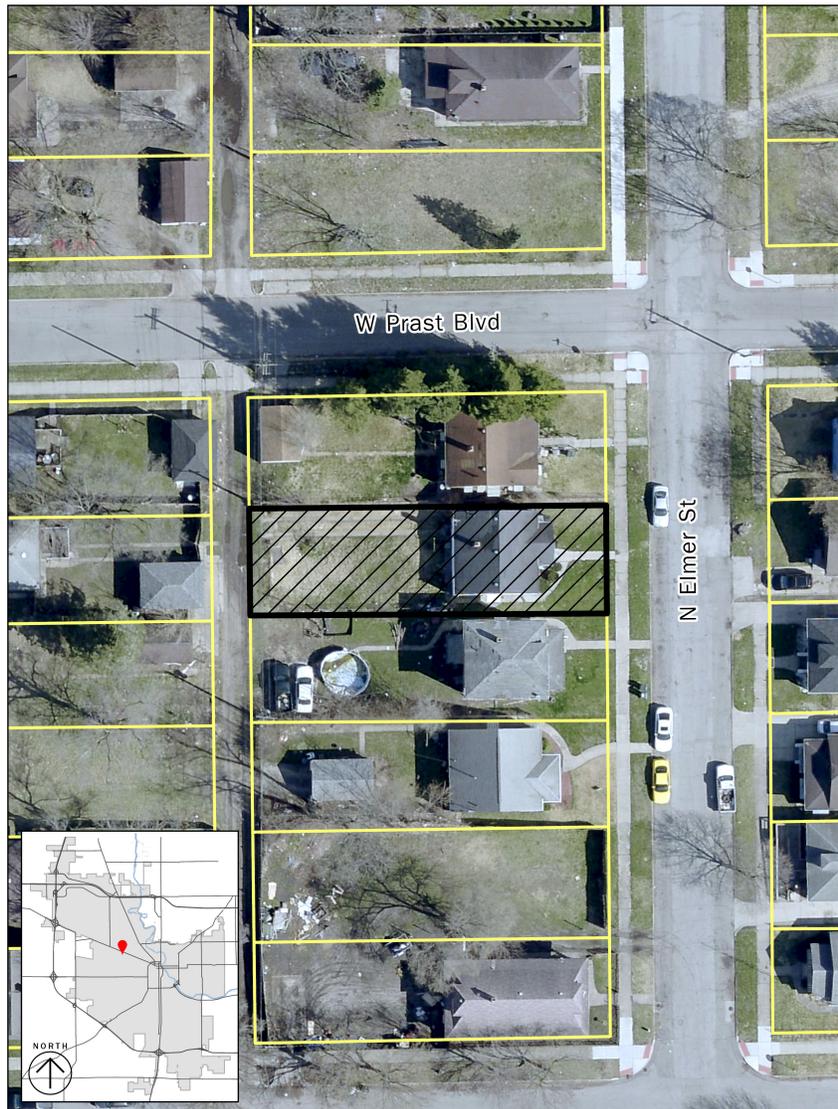
Project Summary

Opening a daycare center.

Requested Action

Special Exception: a Day Care Center in a U1 Urban Neighborhood 1 District

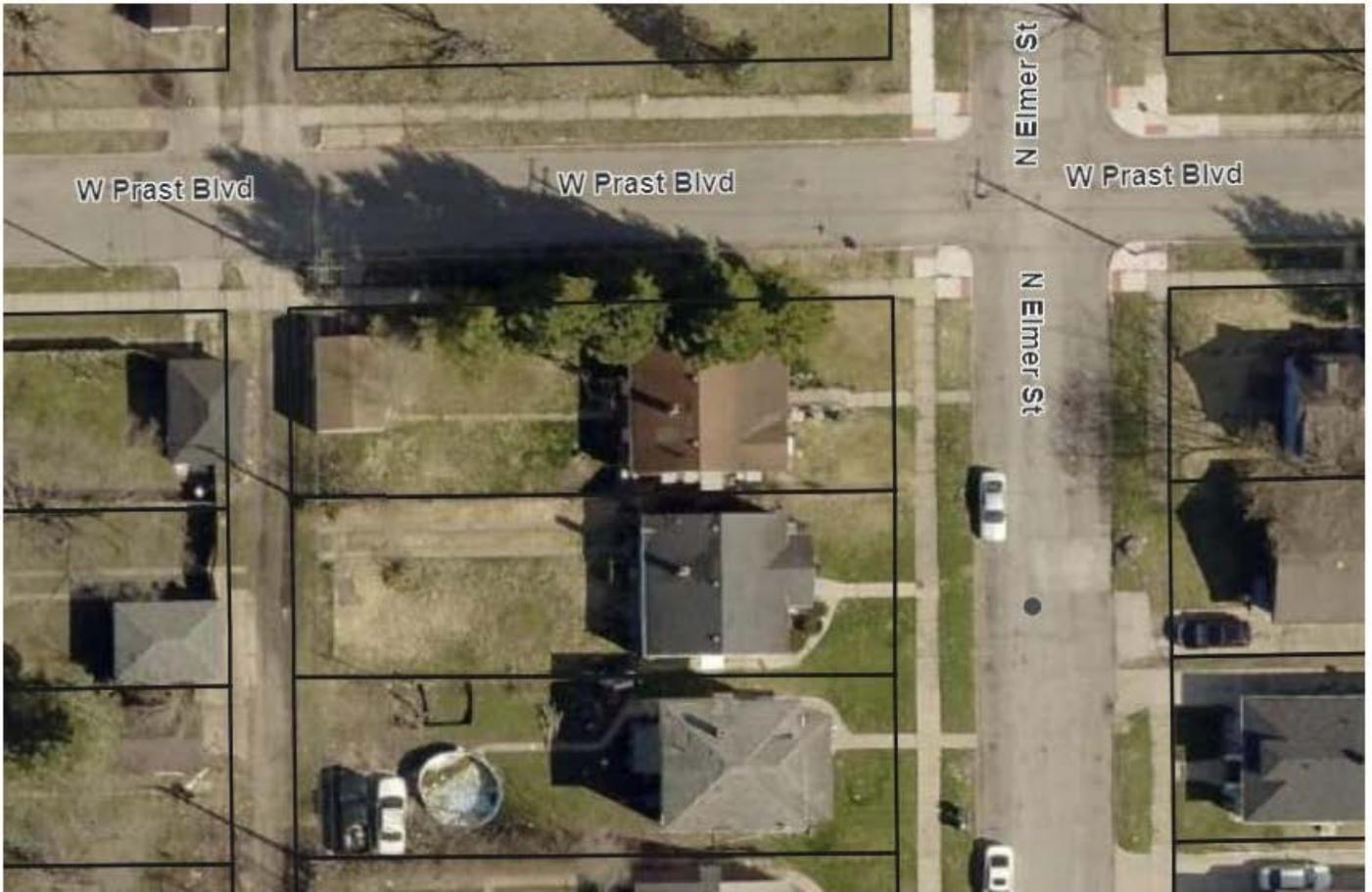
Site Location



Staff Recommendation

Based on the evidence available prior to the public hearing, the staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.

Proposed Site Plan



Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Use to allow:

a Day Care Center in a U1 Urban Neighborhood 1 District

A Special Use 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 addition of a small scale Day Care Center will not be injurious to the public health, safety, morals and 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;

The Day Care Center will be managed in a way that is concurrent with the residential character of the neighborhood in which it is embedded. Provided the center retains the existing character of a traditional single family house, it should not affect the surrounding properties in a substantially adverse manner.

(3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;

Day Care Centers are not out of character with the S1 Suburban Neighborhood 1 Districts. This Special Exception is needed because the owner will not live on the premises. The owner has demonstrated a willingness to manage the property by providing needed repairs to the structure and continue to keep the property consistent with its former use as a single family home.

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

This petition is consistent with the City Plan, South Bend Comprehensive Plan, Objective ED 7: Support neighborhood-based economic development. A Day Care Center is a good example of neighborhood development and redevelopment such as this Day Care Center as long as it is in character with the neighborhood.

Analysis & Recommendation

Analysis: Permitting a Day Care Center imbedded in a neighborhood but also near a primary arterial street will provide easy access for parents seeking childcare for their children.

Staff Recommendation: Based on the evidence available prior to the public hearing, the staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.