

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, November 2, 2020 - 4:00 p.m.

Howard Park Event Center
219 S. St. Louis Blvd.
South Bend, IN 46617

PUBLIC HEARING:

- . **Location:** 3401 MAIN ST BZA#0035-20
Owner: DAWN HAWKS M
Requested Action: Variance(s): 1) From the minimum 10' corner setback to 18"
Zoning: U1 Urban Neighborhood 1

- . **Location:** 4525 CHERRY POINTE DR BZA#0037-20
Owner: MELISSA LODOEN B
Requested Action: Variance(s): 1) From the 6' maximum fence height to 7' 9"
Zoning: U1 Urban Neighborhood 1

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – October 5, 2020
2. Minutes – October 5, 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

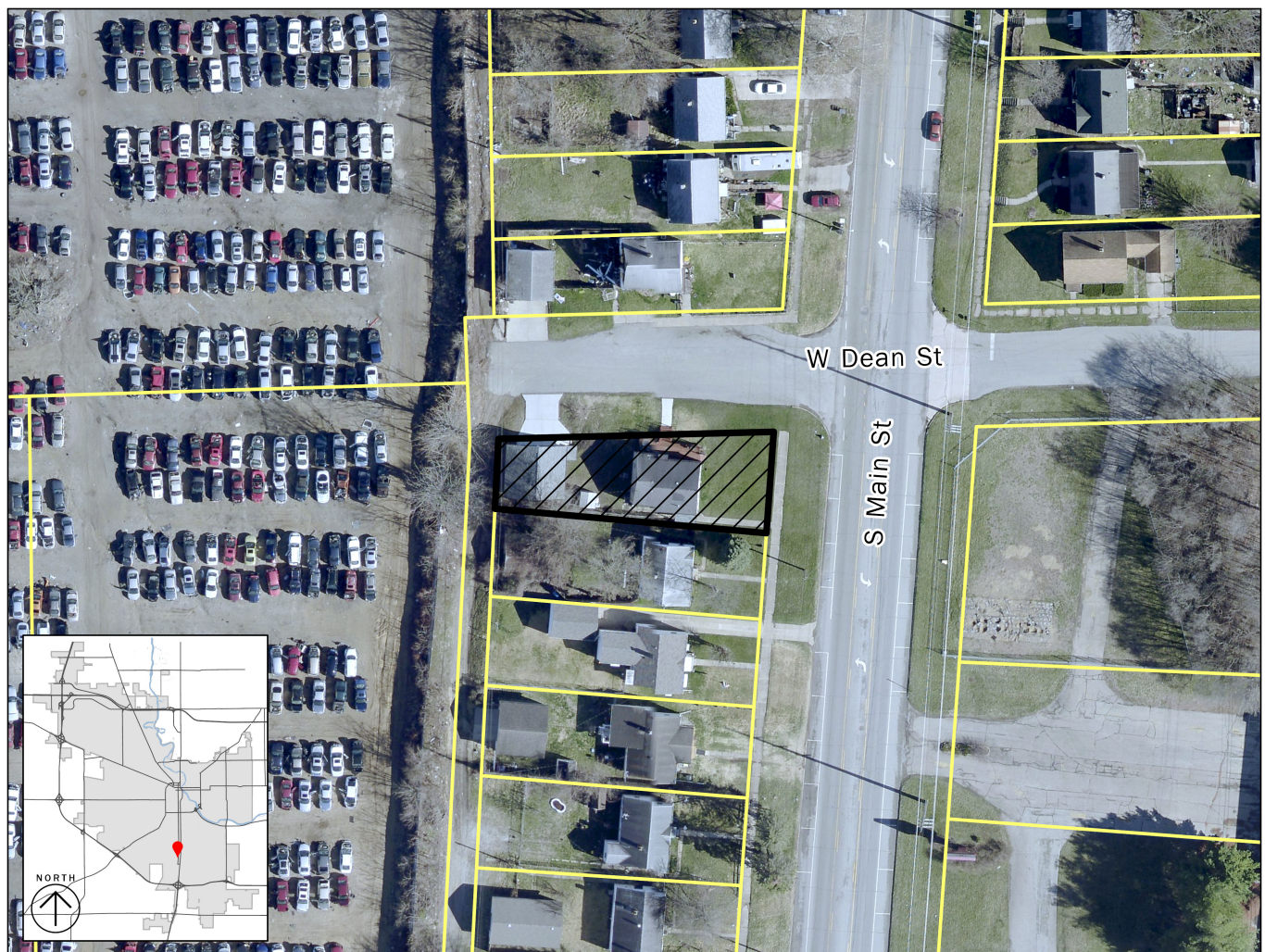
Location: 3401 MAIN ST
Owner: DAWN HAWKS M

Project Summary

Add a roof over an existing deck.

Requested Action

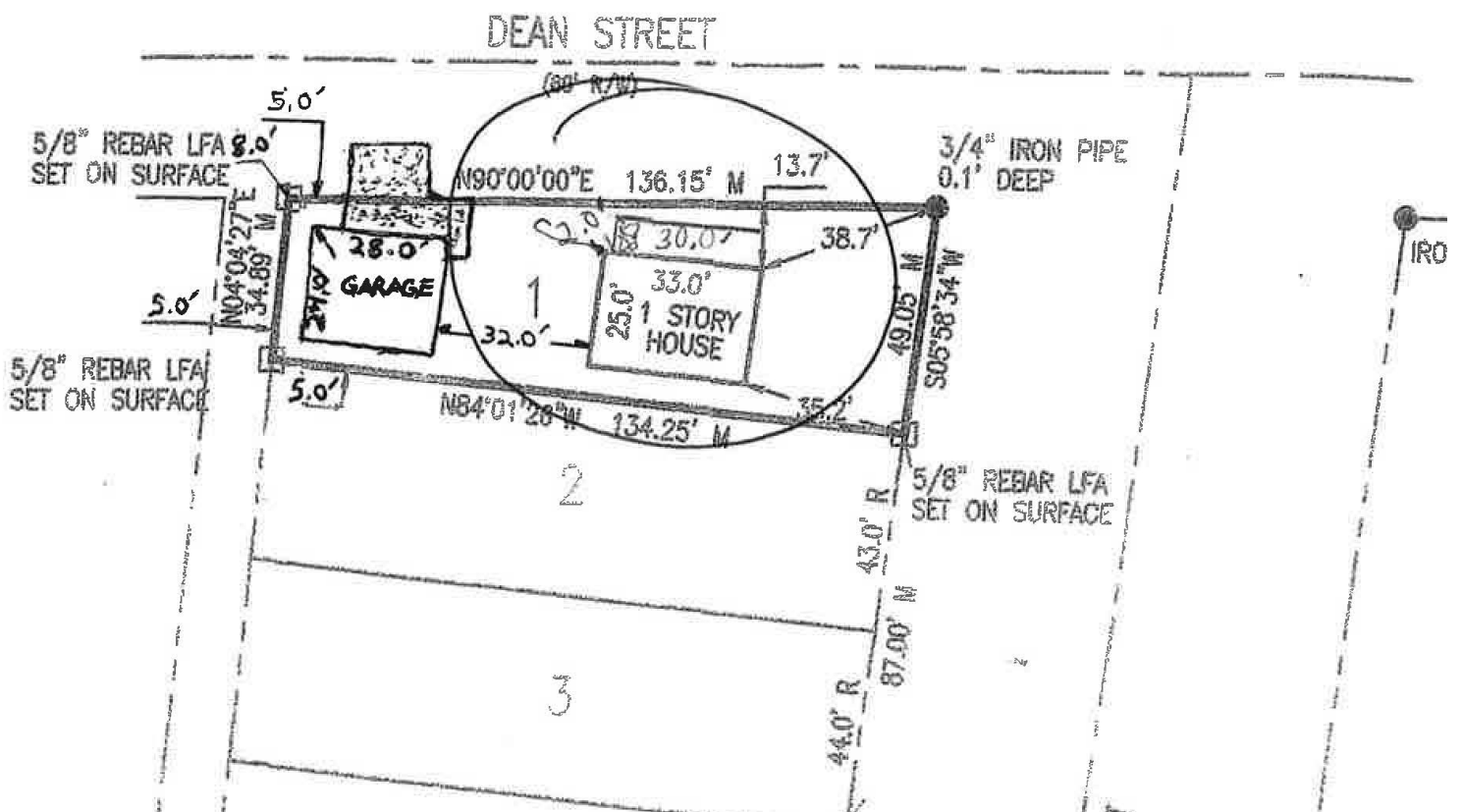
Variance(s): 1) From the minimum 10' corner setback to 18"

Site Location

Staff Recommendation

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

As the petitioner is only requesting to extend the existing roof line over an already existing deck, this 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 area adjacent to the property should not be affected in a substantially adverse manner. Due to the extensive right-of-way along Dean Street the extension of the roof line should not impact any neighboring 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 inhibit the petitioner from using the corner yard for an enclosed structure. The unusually large right of way along Dean Street, which only serves as local access to the alley behind the houses fronting Main Street, creates a corner yard while acting more as a side yard. The very wide right-of-way for Dean Street is unlikely to be utilized for any future street widening or expansion. Because Dean Street provides access to the rear alley, however, vacation of the dead end street is unfeasible.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary to allow the petitioner to install a cover over the deck while still not encroaching on the adjacent right-of-way.

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

The narrowing of the property was established by the original platting of the public right-of-ways. This was not caused by any former or current owner.

Analysis & Recommendation

Analysis: The variance is appropriate due to the unusually large right of way along Dean Street which only serves as local access to the alley behind the houses fronting Main Street. Strict application of the ordinance would inhibit the property from using the corner yard as is appropriate for its nature.

Staff Recommendation: The staff recommends the Board approve the variance as presented.

Property Information

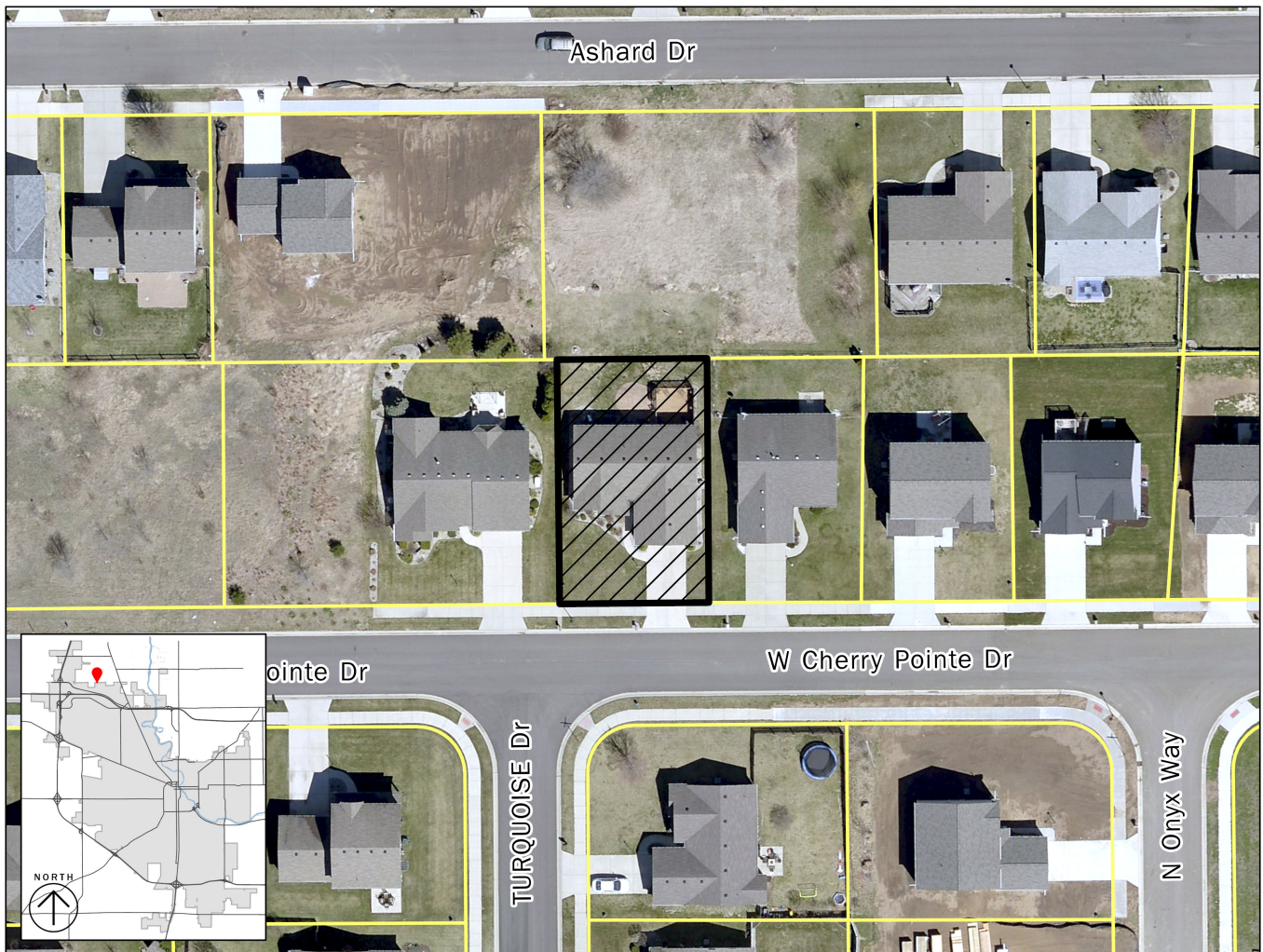
Location: 4525 CHERRY POINTE DR
Owner: MELISSA LODOEN B

Project Summary

Installation of a wood privacy fence.

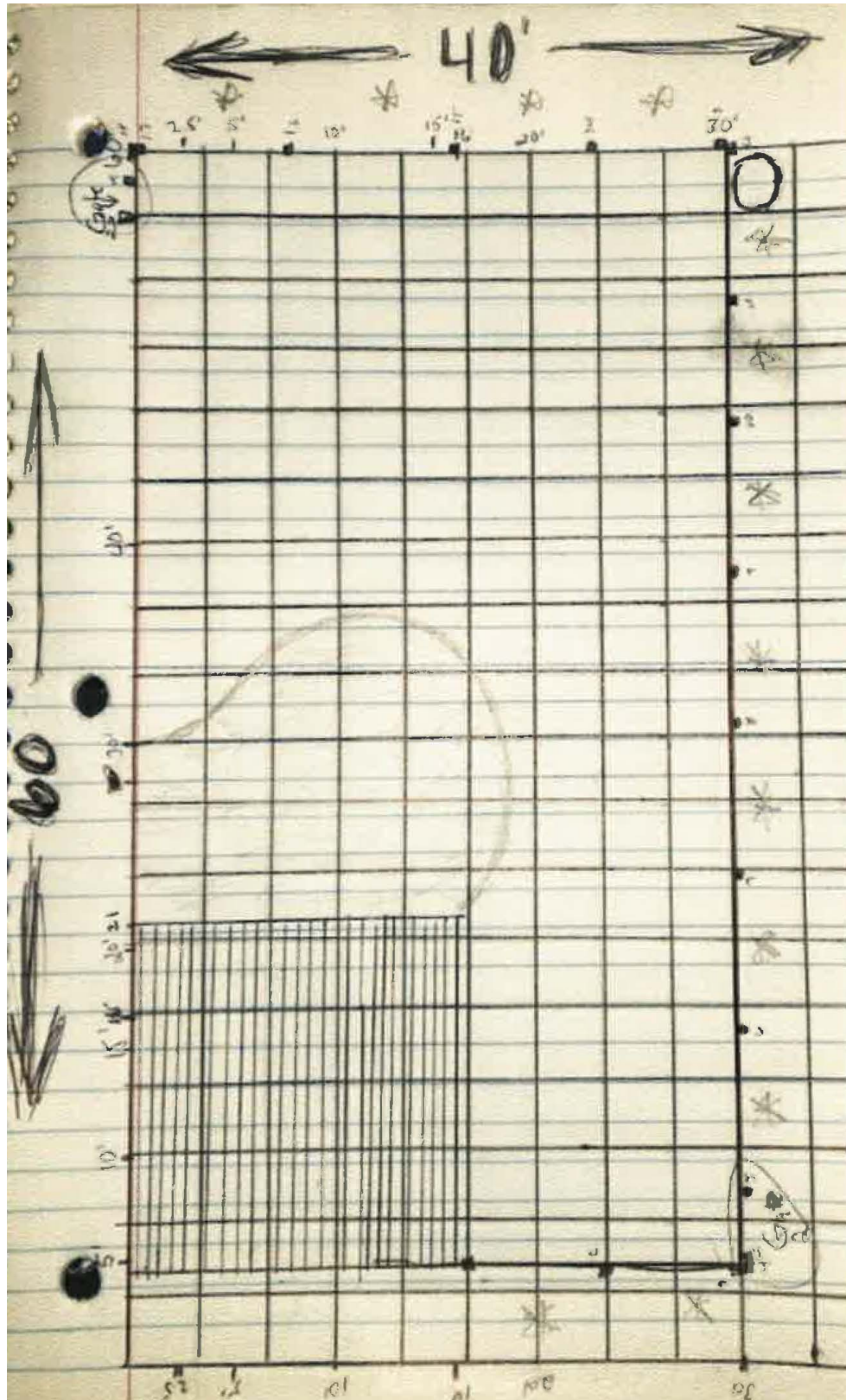
Requested Action

Variance(s): 1) From the 6' maximum fence height to 7' 9"

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

While out of character with the area, approval of this variance would not be injurious to the public health or 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

The proposed fence is out of character with the area, which could have an impact on the value of surrounding properties. The standard 6' privacy fence is used throughout this neighborhood. No other houses in the immediate vicinity have fences taller than 6'. The property to the north of the subject property will be impacted in an adverse way if the variance is granted by placing an imposing fence along the property line.

(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 property can still be secured with a shorter fence that does not prohibit security or privacy of the property. Aesthetic preference is not a practical difficulty.

(4) The variance granted is the minimum necessary

The variance asked for is not the minimum necessary to have the desired effect of privacy in a rear yard. A 6' privacy fence would provide the same privacy as the already constructed fence without necessitating a variance.

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

The proposed variance is being requested due to the fact that the fence was installed without obtaining the appropriate permit and does not comply with the Ordinance. There is not hardship on the property. While there is a slight grade change away from the house, this could be accommodated without installing the fence above the maximum allowed height.

Analysis & Recommendation

Analysis: There are not significant enough 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.

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