

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Tuesday, January 2, 2024 - 4:00 p.m.
County-City Building
Seventh-Floor County Commissioner's Conference Room
www.tinyurl.com/sbbza

PUBLIC HEARING:

- Location:** 918 CALVERT ST BZA#0238-23
Owner: ROSENDO SANCHEZ
Requested Action:
Variance(s):
1) Accessory structure without a primary
Zoning: U1 Urban Neighborhood 1
- Location:** 3601, 3603 and 3609 JEFFERSON BLVD BZA#0241-24
Owner: JOHN J & MILDRED A STAKOWICZ
Requested Action:
Variance(s):
1) from the minimum VLT of 50% to 48%
Zoning: NC Neighborhood Center
- Location:** 5310 BRICK RD BZA#0242-24
Owner: HOME CITY ICE CO
Requested Action:
Variance(s):
1) from the 30' minimum front yard setback to 15'
Zoning: I Industrial
- Location:** 721 SAMPLE ST BZA#0243-24
Owner: JATT HOLDINGS LLC
Requested Action:
Variance(s):
1) from the minimum 20% transparency to 12% for a corner facade
Zoning: C Commercial
- Location:** 1717 IRELAND RD BZA#0244-24
Owner: JAMES M PARKER REV TRUST W/LIFE ESTATE, JAMES M PARKER TRUSTEE
Requested Action:
Variance(s):
1) from the allowed 4 parking stalls/spaces to 7
Zoning: S1 Suburban Neighborhood 1

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

6. **Location:** 2921 WESTERN AVE BZA#0239-23
Owner: ROBERT HENDERSON
Requested Action:
Special Exception: a Group Residence
Zoning: NC Neighborhood Center
7. **Location:** 3001, 3011, and 3015 WESTERN AVE BZA#0245-24
Owner: WESTERN AVE LLC
Requested Action:
Variance(s):
1) from the minimum 60% transparency of a front façade to 7% and from the minimum 20% transparency of a corner façade to 0%;
2) to allow parking in the front/corner yard
Special Exception: Minor Vehicle Service
Zoning: NC Neighborhood Center

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – December 6, 2023
2. Minutes – December 6, 2023
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: 918 CALVERT ST
Owner: ROSENDO SANCHEZ

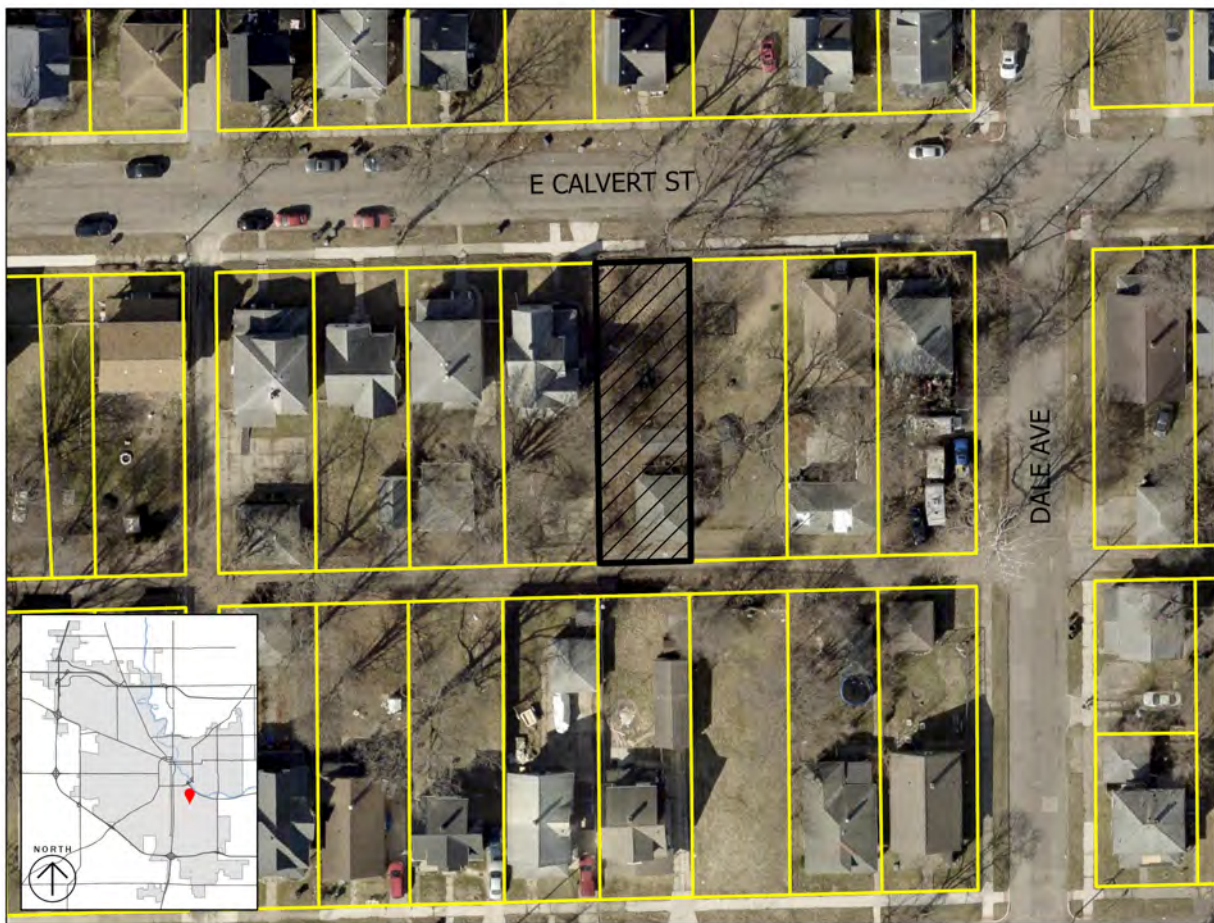
Project Summary

Legalizing an existing garage and a shed as a accessory structures without a primary.

Requested Action

Variance(s):
1) Accessory structure without a primary

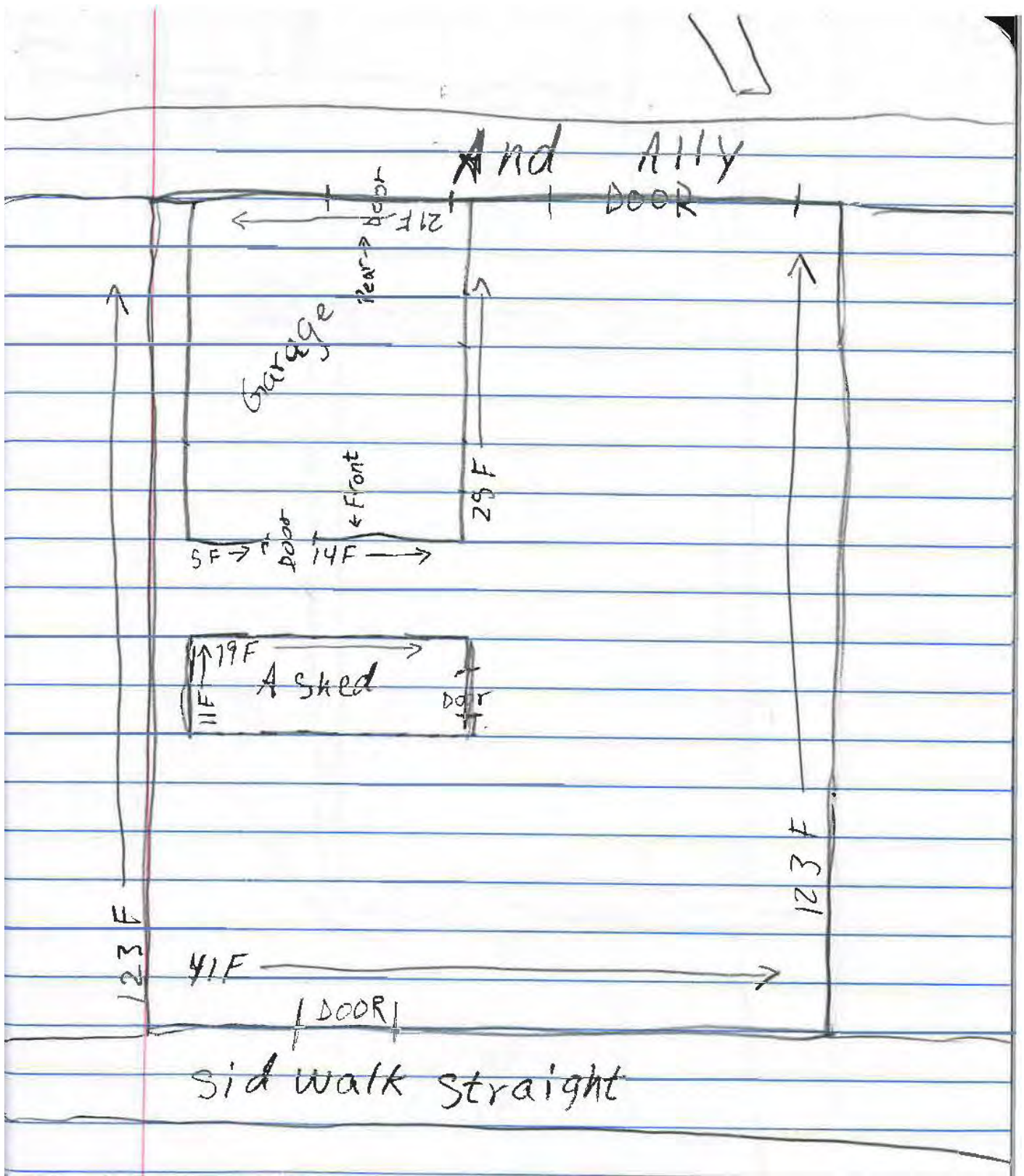
Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented conditional to the property owner seeking new home permits by 1/2/26 and beginning construction by 1/2/27.

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 variance should not be injurious to the public health, safety, morals and general welfare of the community. The variance legalizes existing structures that match the character of the area.

(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 legalization of the existing garage and shed will facilitate new construction on the property.

(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 the Ordinance would result in practical difficulties to the use of the property. Requiring the property owner to remove the garage because there is no primary structure would be counterproductive, seeing as the owner will be utilizing said garage to construct a primary structure on the property.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary. The variance would legalize a garage that has existed since at least 1957 and a shed that was built prior to 2002 to facilitate construction of a new house on the lot.

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

The variance does correct a hardship caused by a former owner of the property. The house in front of the garage was removed between 1976 and 1986, creating a lot that had an accessory structure without a primary. The shed was subsequently built between 1998 and 2002.

Analysis & Recommendation

Analysis: Granting the variance will allow for the construction of a new house on the lot. The garage and shed are consistent with the character of the area and the legalization of the structures will facilitate further development in the community.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented conditional to the property owner seeking new home permits by 1/2/26 and beginning construction by 1/2/27.

Property Information

Location: 3601, 3603 and 3609 JEFFERSON BLVD
Owner: JOHN J & MILDRED A STAKOWICZ

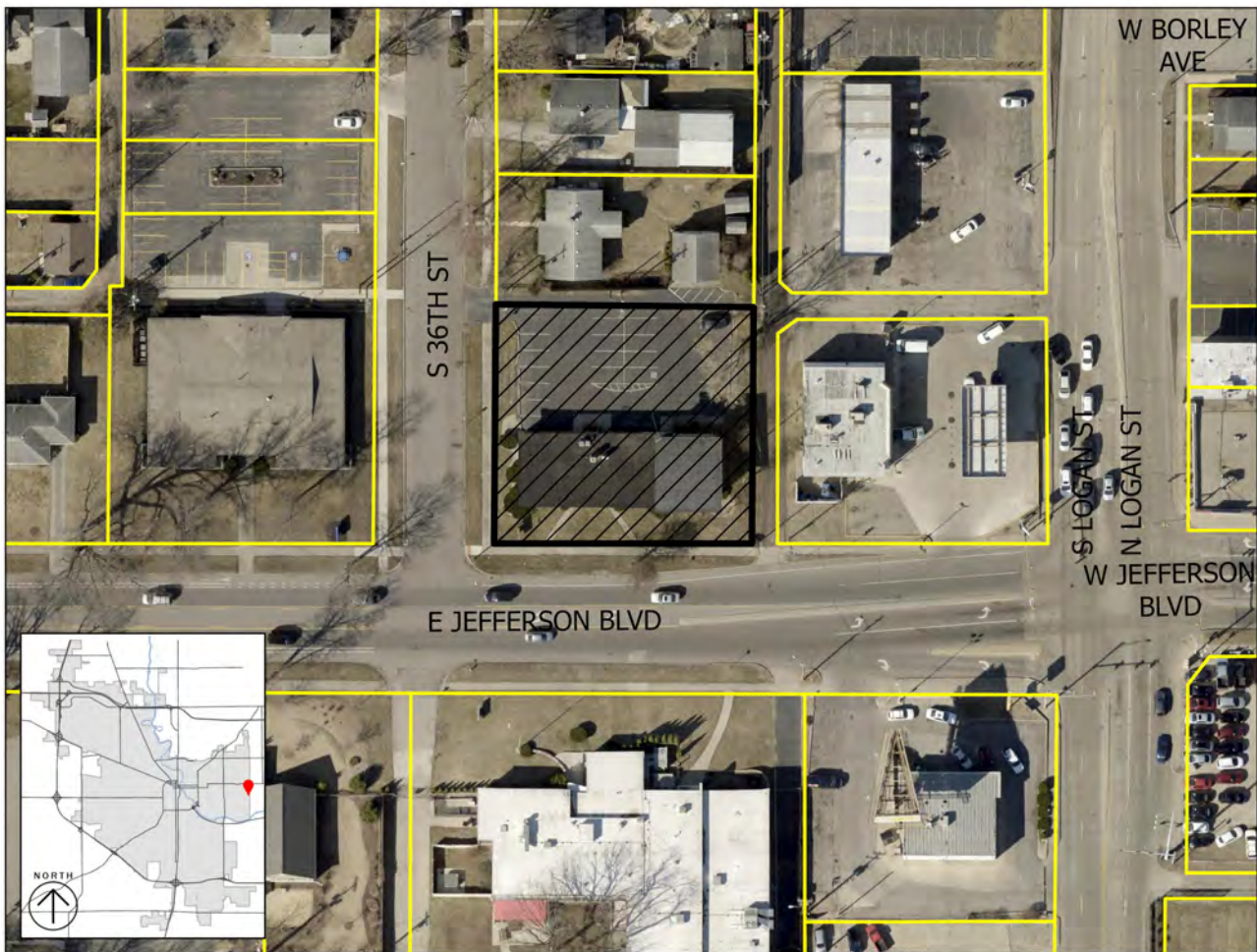
Project Summary

Installed replacement windows with less than 50% minimum VLT.

Requested Action

Variance(s):
1) from the minimum VLT of 50% to 48%

Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

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 should not be injurious to the public health, safety or general welfare of the community. The proposed variance is to allow for the replacement of windows with a 48% VLT vs. 50% and should generally meet the intent of the Ordinance.

(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 adjacent properties should not be adversely impacted. The site is located in an area with adjacent commercial uses and there are no changes proposed for the site that will impact neighboring properties.

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

There is no practical difficulty on the property, however, the variance is only slightly off from the required 50% VLT, keeping with the general intent of the Ordinance.

(4) The variance granted is the minimum necessary

The petitioner is seeking a variance of 2% difference in the visual light transmittance. The windows will still be relatively transparent and the variance is the minimum necessary to address the concerns.

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

The petitioner did install the windows before seeking a permit, however, the variance is minimal for the overall project.

Analysis & Recommendation

Analysis: The variance requested is only slightly less than what is required by the Ordinance. The difference should be indistinguishable to the public and will still allow for sufficient light transmittance consistent with the intent of the Ordinance.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

Property Information

Location: 5310 BRICK RD
Owner: HOME CITY ICE CO

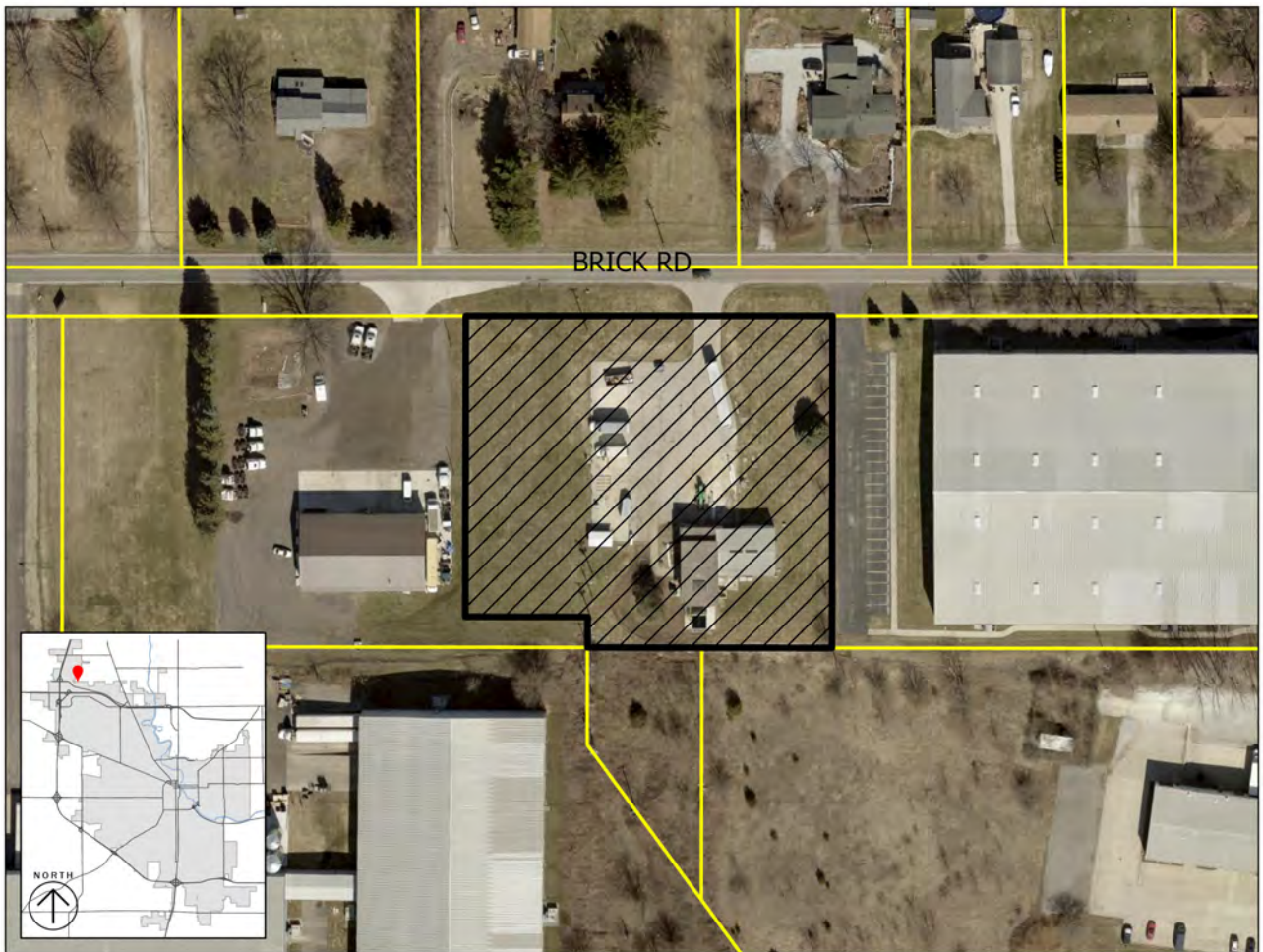
Project Summary

Requesting a variance to expand the parking lot closer to Brick Road.

Requested Action

Variance(s):
1) from the 30' minimum front yard setback to 15'

Site Location



Staff Recommendation

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

The approval may be injurious to the public health, safety, and general welfare of the community. The variance requested intends to reduce front yard setback between an I Industrial site and parcels located in St. Joseph County that have the equivalent zoning of S1 Suburban Neighborhood 1. The variance is requested to allow for a parking lot that extends to within 15' of the front property line.

(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 adjacent properties may be affected in an adverse manner. Large setbacks between I Industrial parcels and S1 Suburban Neighborhood 1 parcels exist to ensure appropriate buffering between incompatible uses. Reducing the buffer would not meet 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

The strict application of the Ordinance would not result in practical difficulties in the use of the property. The lot has over 12,750 square feet of paved surface and has other areas for parking lot expansion within the allotted setback boundaries. Denying the variance would not limit the use of the property

(4) The variance granted is the minimum necessary

The variance granted is not the minimum necessary. The lot has over 12,750 square feet of paved surface and has other areas for parking lot expansion within the allotted setback boundaries that do not require a variance from the front setback.

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

The variance requested does correct a hardship caused by a current owner. It would support the proposed expansion of a parking lot on the parcel.

Analysis & Recommendation

Analysis: Large setbacks between I Industrial parcels and S1 Suburban Neighborhood 1 parcels exist to ensure appropriate buffering between incompatible uses. Reducing the buffer to allow for a parking lot expansion would not meet 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.

Property Information

Location: 721 SAMPLE ST
Owner: JATT HOLDINGS LLC

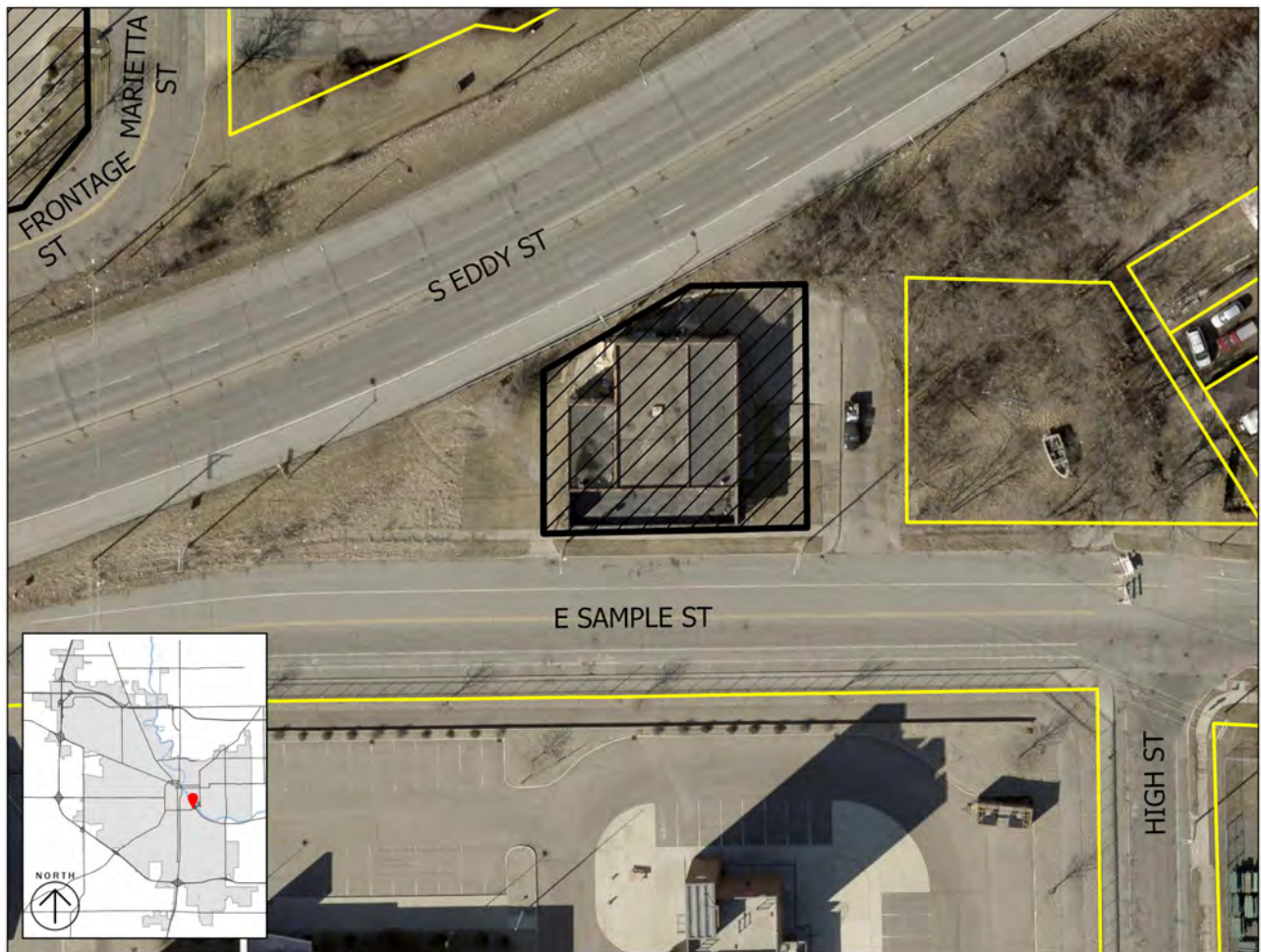
Project Summary

Requesting a variance to permit window transparency on a recently remodeled corner facade.

Requested Action

Variance(s):
1) from the minimum 20% transparency to 12% for a corner facade

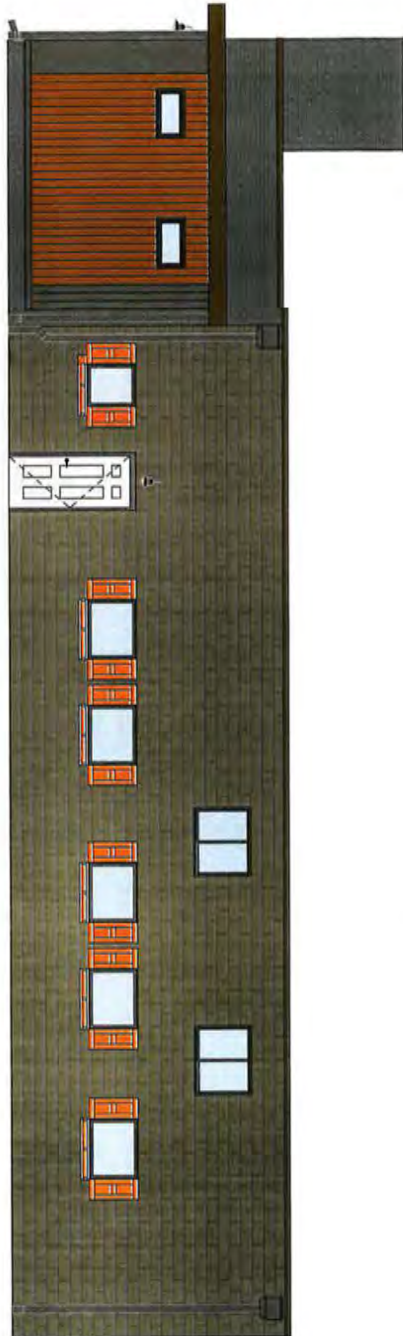
Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

Proposed Site Plan



WINDOW NOTE:
 ALL NEW WINDOWS AND DOORS WITH GLASS SHALL HAVE
 A MINIMUM U-VALUE OF 0.30, SHADING COEFFICIENT OF 0.70,
 AND A MAXIMUM VISIBLE LIGHT TRANSMITTANCE OF 80 PERCENT.

ZONING NOTE:
 PLEASE CONTACT CITY OF SOUTH BEND ZONING AT 616/4285-1827 OR
 HYPERLINK "mailto:ZONING@SOUTHBEND.GOV" ZONING@SOUTHBEND.GOV FOR QUESTIONS OR
 MORE INFORMATION ON ZONING & SIGNAGE COMPLIANCE INCLUDING POSSIBLE ENCROACHMENT
 IN FLOW PERMIT.

PRITCHARD MECHANICAL - AS Built Elevations

EAST ELEVATION

721 E. SAMPLE ST., SOUTH BEND, IN 46601



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 should not be injurious to the public health, safety or general welfare of the community. The proposed variance is to allow for reduced transparency on a corner facade facing a street that functionally serves as a driveway.

(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 adjacent properties should not be adversely affected. The windows face a short, dead end street that functions as a driveway. The site is located along a commercial corridor and there are no changes proposed for the site that would impact neighboring 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 Ordinance would result in practical difficulties in the use of the property. The owner would be required to meet the 20% minimum transparency standards of a corner facade in a C Commercial zoned district when the facade functions as a side facade, which has no transparency requirements.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary. The petitioner is requesting a variance to allow for 12% transparency rather than the 20% required for a corner facade. The adjacent road serves as a driveway, and if it were a driveway the facade would not be subject to minimum transparency requirements.

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

The street east of the property functions as a driveway. It creates the hardship that the east facing facade is held to the heightened transparency standards of a corner facade rather than a side facade.

Analysis & Recommendation

Analysis: The road to the east of the property is a short, dead end road that functions as a driveway. While the east facade is technically a corner facade facing a street, it serves functionally as a side facade. Reducing the transparency standards from 20% for a corner facade to the existing 12% permits a design that is consistent with the intent of the Ordinance.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve the variance as requested.

Property Information

Location: 1717 IRELAND RD

Owner: JAMES M PARKER REV TRUST W/LIFE ESTATE, JAMES M PARKER TRUSTEE

Project Summary

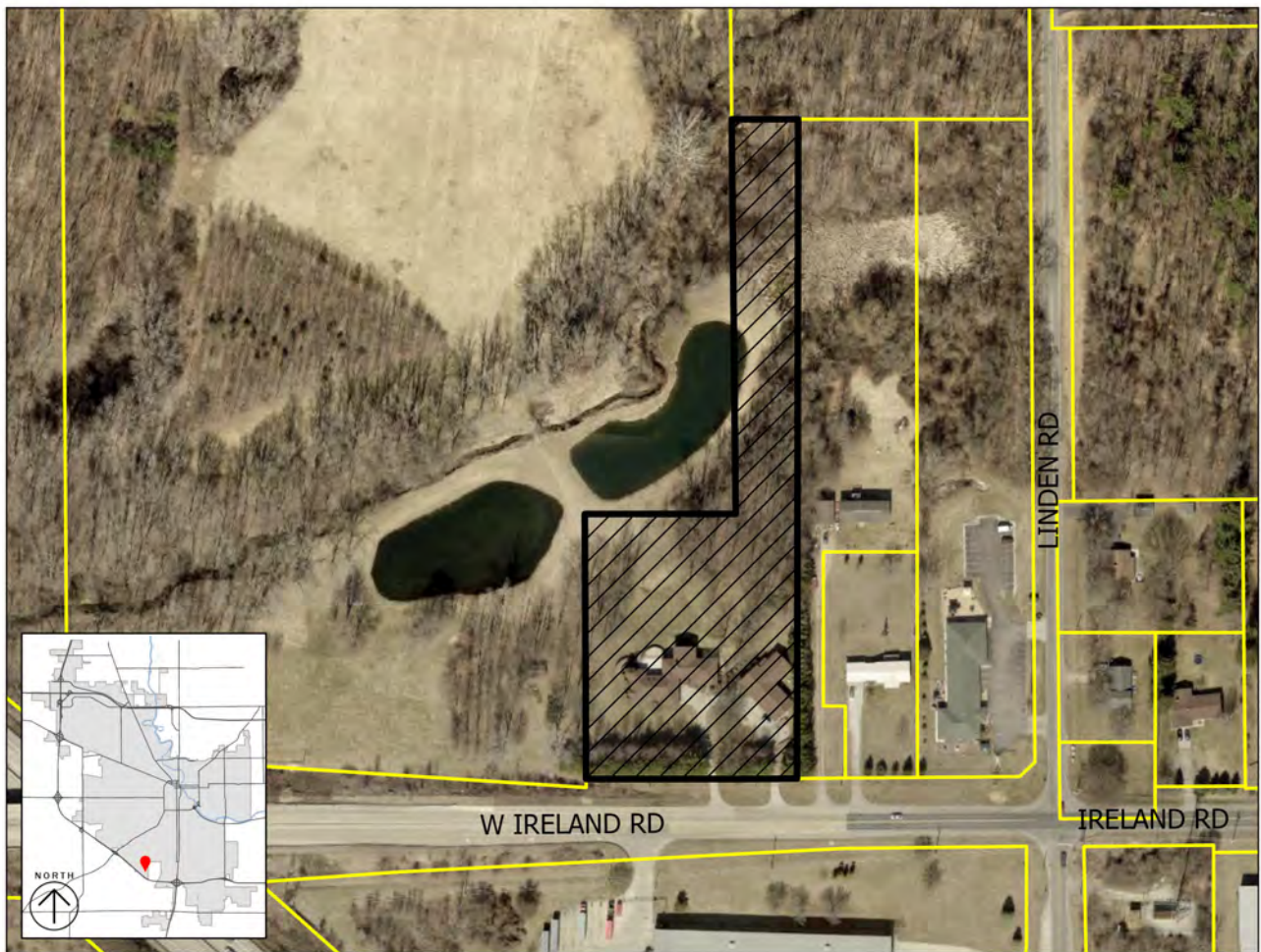
A one stall garage addition to the home which currently has two stalls.

Requested Action

Variance(s):

1) from the allowed 4 parking stalls/spaces to 7

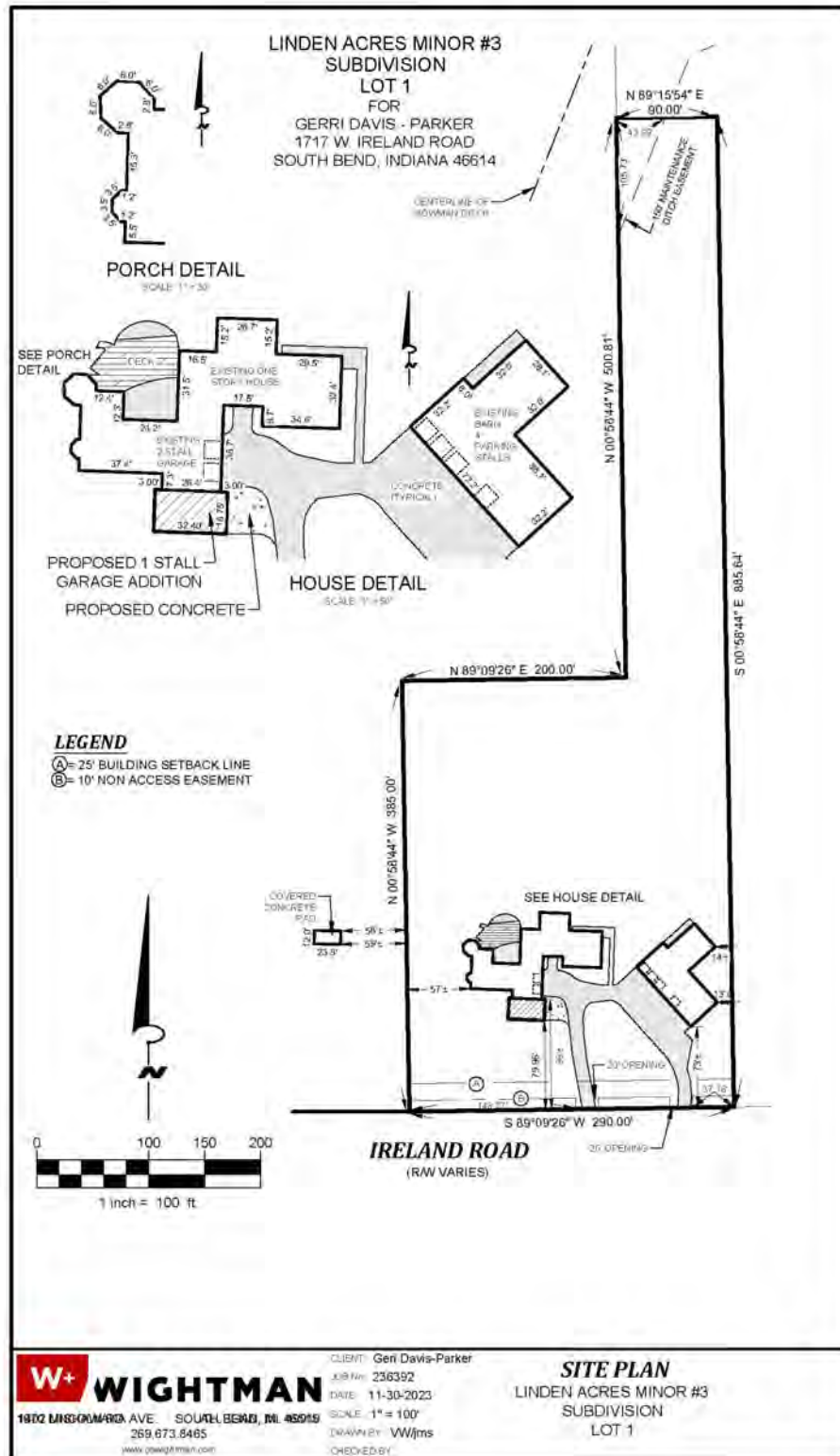
Site Location



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

The approval of the variance should not be injurious to the public health, safety, and general welfare of the community. The property is a large parcel isolated between the St. Joseph Valley Parkway to the west and unincorporated St. Joseph County to the east.

(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 structure is setback nearly 80' from the public street, so the use and value of the adjacent area should not be affected in an adverse manner. Due to the large lot size and setback, there should be no impact on the surrounding properties as the garage addition will be approximately 200' from the adjacent property owner's home. Also, the petitioner owns approximately 100 acres of the surrounding land.

(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 result in a practical difficulty in the use of the property. The property is significantly larger than a typical City property and the Zoning Ordinance does not address lots of this size. The barn located on the property is used for items and vehicles necessary to maintain their large property.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary to allow for the expansion of a garage attached to the home.

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

The location of the property relative to the St. Joseph Valley Parkway to the west and unincorporated St. Joseph County to the east has led to the creation of an area that is rural size and character. The existing barn structure was granted a variance in 1998 and houses items and vehicles necessary to main their large property.

Analysis & Recommendation

Analysis: The 3.59 acre parcel is bounded by S1 Suburban 1 residentially zoned property (owned by the petitioners) and St. Joseph Valley Parkway on the west and I Industrial zoning to the south. The size of the property warrants consideration and relief from the strict application 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: 2921 WESTERN AVE
Owner: ROBERT HENDERSON

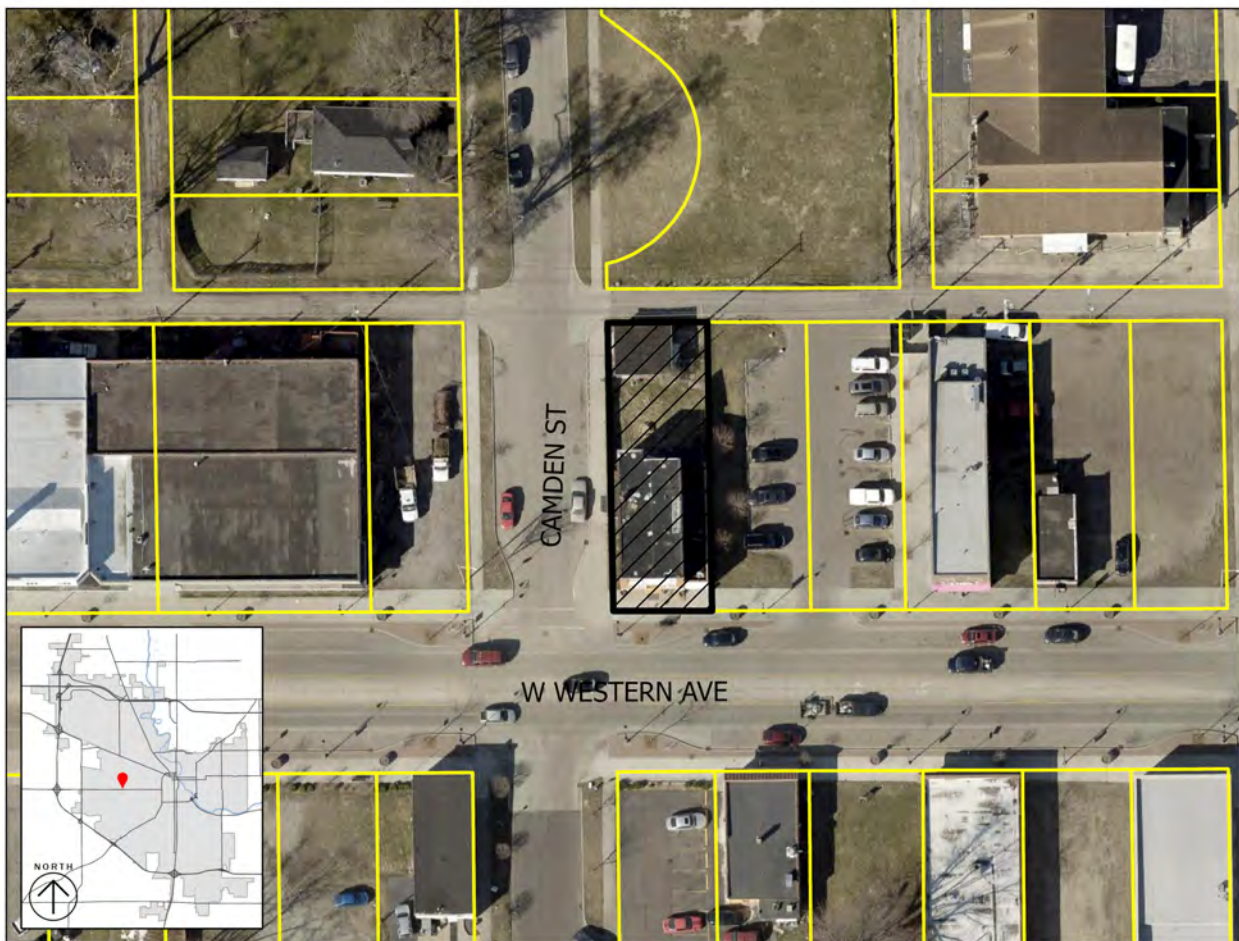
Project Summary

Request a special exception to allow for the use of a Group Residence.

Requested Action

Special Exception: a Group Residence

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation subject to a limit of one person per bedroom.

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;

The proposed use should not be injurious to the public health, safety, comfort or general welfare of the community. A group residence aligns with the intent of NC districts to support a mixture of commercial uses and higher density dwelling units.

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

The proposed use should not injure or adversely affect the use of the adjacent area or property values. The property has operated as a group residence for multiple years and will continue to function in this capacity.

(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 group residence will be consistent with the character of the district and neighborhood in both use and style of construction. Western Ave is a mixed use corridor and the group residence will offer multiple dwelling units in a structure that is suitable for the use.

(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: This group residence will be consistent with the character of the neighborhood in both use and style of construction. Western Ave is a mixed use corridor and the group residence will offer multiple dwelling units in a structure that is suitable for the use. The group residence will meet the intent of the Comprehensive Plan by supporting a mix of housing types, densities, price ranges, and amenities.

Staff Recommendation: Based on the information provided prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation subject to a limit of one person per bedroom.

Property Information

Location: 3001, 3011, and 3015 WESTERN AVE
Owner: WESTERN AVE LLC

Project Summary

Requesting a special exception for Vehicle Service, Minor, and proposing a parking lot on vacant eastern lot.

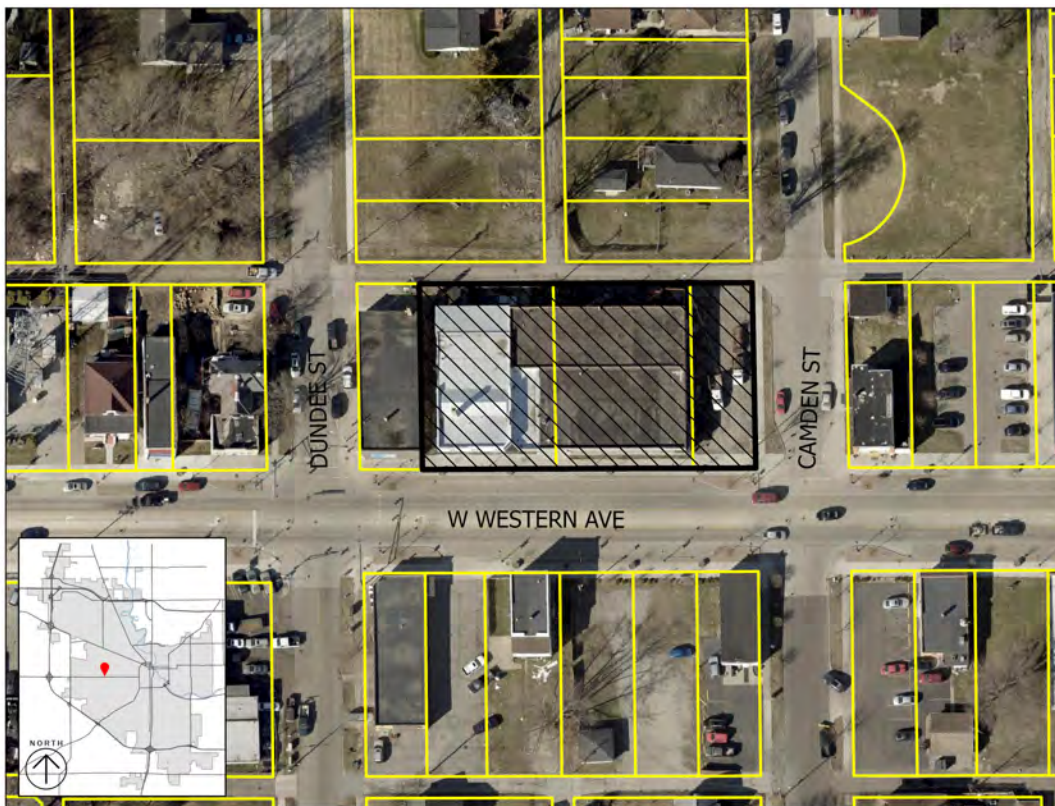
Requested Action

Special Exception: Minor Vehicle Service

Variance(s):

- 1) from the minimum 60% transparency of a front façade to 7% and from the minimum 20% transparency of a corner façade to 0%
- 2) to allow parking in the front/corner yard

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. The staff recommends the Board deny Variance #1 to allow reduced transparency requirements. Staff recommends the Board approve Variance #2 to allow parking in a front/corner yard.

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;

Provided the building is brought up to NC building standards, the proposed use should not be injurious to the public health, safety, comfort, or general welfare of the community. The site development standards in the Ordinance are established to limit potentially negative impacts on the surrounding properties.

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

Western Avenue is a long established mixed use corridor. The building was utilized to accommodate commercial vehicle repair from 1985 until 2017. The approval of the Special Exception should not injure or adversely affect the use of adjacent area, provided the building is brought up to NC building standards.

(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 building was originally constructed for window manufacturing, and was then used as a commercial vehicle service station from the mid 1980s until 2017. The NC Neighborhood Center District allows this as a Special Exception in order to evaluate the appropriateness in specific areas. At this location, the reactivation of the vacant building to its original use is consistent with the character of the district and surrounding area.

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

The plan is consistent with City Plan (2006) Objective LU 2: Stimulate the rehabilitation and adaptive reuse of the property in 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

The approval of variance #1 may be injurious to the general welfare of the community. The low transparency does not meet the intent of the Ordinance to create pedestrian oriented buildings in the NC district that appropriately address the street. The approval of variance #2 should not be injurious to the general welfare of the community. The parking lot will be built to all development standards and serve as an accessory use to the minor vehicle repair.

(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 approval of variance #1 may adversely impact the use and value of adjacent properties. Design standards in the NC district encourage buildings with active facades that address the street. The existing 7% transparency does not meet the intent of the Ordinance. Variance #2 should not adversely impact the use and value of adjacent properties. The parking lot will be built to all development standards and mirrors the layout of several proximal buildings.

(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 would not result in practical difficulties in the use of the property for variance #1. The building could meet transparency standards utilizing existing window openings. Due to the narrow width of the corner lot, strict application of the Ordinance on variance #2 would substantially reduce the parking capacity of the parcel.

(4) The variance granted is the minimum necessary

Granting variance #1 would not be the minimum necessary. Reducing minimum transparency requirements from 60% to 7% would not meet the intent of building standards in the NC district. Granting variance #2 would be the minimum necessary. The Ordinance mandates a 12' setback for corner yard parking when no building is present on the parcel. Reducing this setback to a type 1 buffer would allow for more parking while still preserving the intent of the Ordinance to buffer the lot from the sidewalk and adjacent parcels.

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

Variance #1 corrects a hardship caused by a former owner of the property. The existing window openings would meet the 60% transparency requirements but were boarded up by a previous owner. If the current owner were granted the Special Exception, the owner would have to meet all development standards, including transparency standards. Variance #2 responds to the narrow width of the lot, which was not a hardship created by a former or current owner of the property.

Analysis & Recommendation

Analysis: The building was originally constructed for window manufacturing, and was then used as a commercial vehicle service station from the mid 1980s until 2017. While the Neighborhood Center Zoning District outlines pedestrian orientated development, the use of Vehicle Service, Minor is an allowed Special Exception in the district, particularly for such instances. Because the proposed use is consistent with a previous use, it is within the character of the district and surrounding area.

The site contains no practical difficulties and it would not affect the usability of the site to install appropriate transparency that meets the standards of the Ordinance. However the use of the corner parcel as a parking area, if held to setback requirements, could hinder the usability and reactivation of the parcel.

Staff Recommendation: Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. The staff recommends the Board deny variance #1 to allow reduced transparency requirements. Staff recommends the Board approve variance #2 to allow parking in a front/corner yard.