

City of South Bend
BOARD OF ZONING APPEALS

AGENDA

Monday, July 1, 2024 - 4:00 p.m.
County-City Building
Fourth-Floor Council Chambers
www.tinyurl.com/sbbza

PUBLIC HEARING:

- 1. Location:** 1615 COLFAX AVE **BZA#0270-24**
Owner: JEFFREY P AND HALRUN LUPPES
Requested Action:
Variance(s):
1) to allow the unfinished side of a fence to face outward from the property
Zoning: S1 Suburban Neighborhood 1
- 2. Location:** 6480 ADAMS RD **BZA#0272-24**
Owner: INDIANA MICHIGAN POWER COMPANY
Requested Action:
Variance(s):
1) to allow a fence constructed of barbed wire
Zoning: I Industrial
- 3. Location:** 4202 WASHINGTON ST **BZA#0273-24**
Owner: JAIME BAUTISTA PLATA
Requested Action:
Variance(s):
1) from the minimum side-yard setback of 5' to 2' for the existing house and constructed porch
Zoning: U1 Urban Neighborhood 1
- 4. Location:** 1830 LEER ST **BZA#0271-24**
Owner: KATIKI S LIPSCOMB
Requested Action:
Special Exception: a Restaurant
Zoning: UF Urban Neighborhood Flex

ITEMS NOT REQUIRING A PUBLIC HEARING:

- 1. Findings of Fact – June 3, 2024**
- 2. Minutes – June 3, 2024**
- 3. Other Business**
- 4. Adjournment**

NOTICE FOR HEARING AND SIGHT 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: 1615 COLFAX AVE
Owner: JEFFREY P AND HALRUN LUPPES

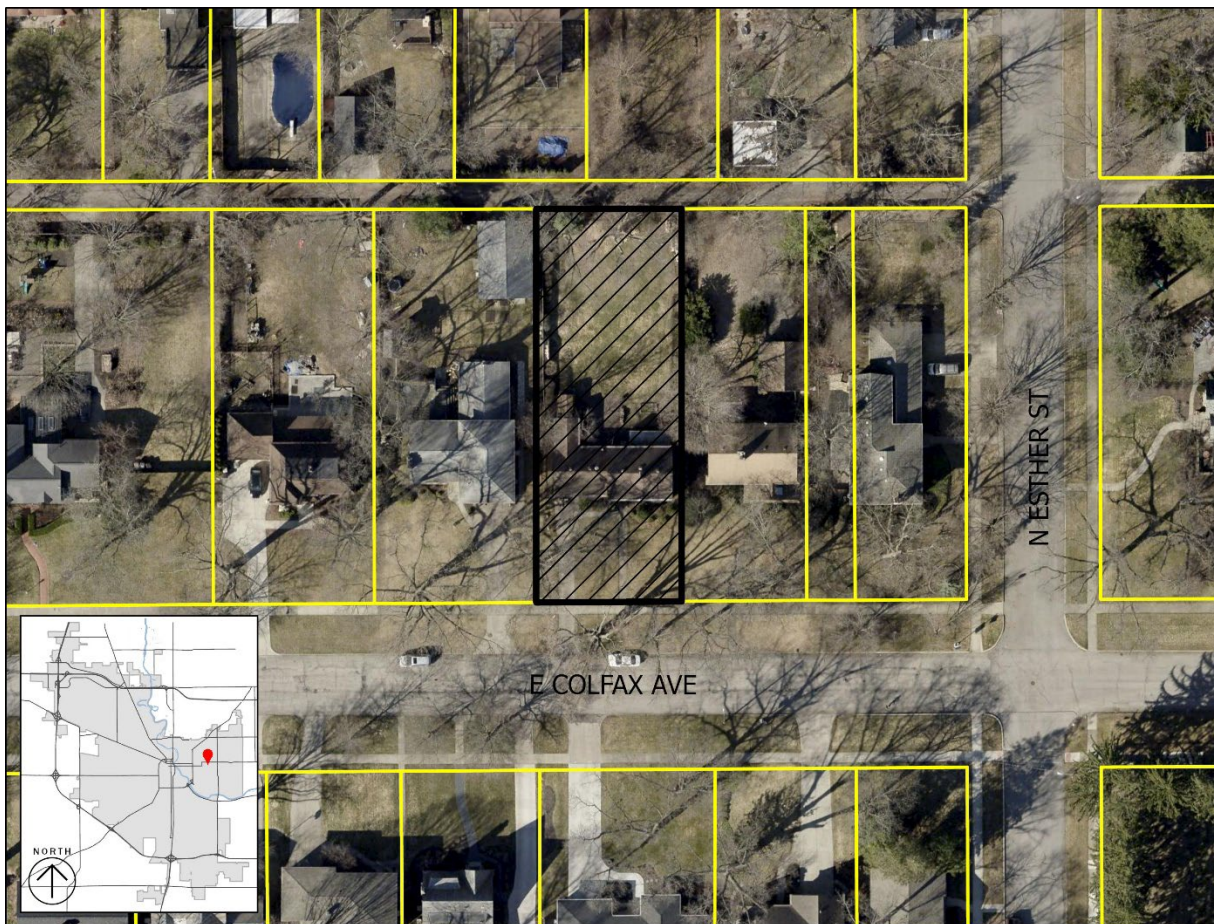
Project Summary

To install a privacy fence at the back of the property, along the alley, with the smooth side facing into the yard and not facing the alley.

Requested Action

Variance(s): 1) to allow the unfinished side of a fence to face outward from the property

Site Location



Staff Recommendation

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

Proposed Site Plan

3 / 11

1615 E Colfax



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 the privacy fence to be erected with the non-finished side facing the alley could be injurious to the general welfare of the community because it would not 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 the area adjacent to the property could be affected in an adverse manner as the inward facing finished side would be out of character for the area and contrary to 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 terms of the Chapter would not result in practical difficulties in the use of the property. A fence with a shadow box design or a double-sided design could be erected that would allow a finished side to face both the alley and inward to the property.

(4) The variance granted is the minimum necessary

Since there is no practical difficulty to overcome, the variance request is not the minimum necessary. The petitioner could erect an alternative fence design, such as a shadow box fence or double-sided design, that would conform to the ordinance while also providing a finished side to face inward to the property.

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

The hardship is self-created by the petitioner in their desire for a fence with the finished side facing inward.

Analysis & Recommendation

Analysis: There are no practical difficulties or unique characteristics that warrant the request for the variance. An alternative fence design, such as a shadow box fence or double-sided fence, could be installed that would conform to the ordinance while also providing a finished side to face inward to the property.

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

Property Information

Location: 6480 ADAMS RD
Owner: INDIANA MICHIGAN POWER COMPANY

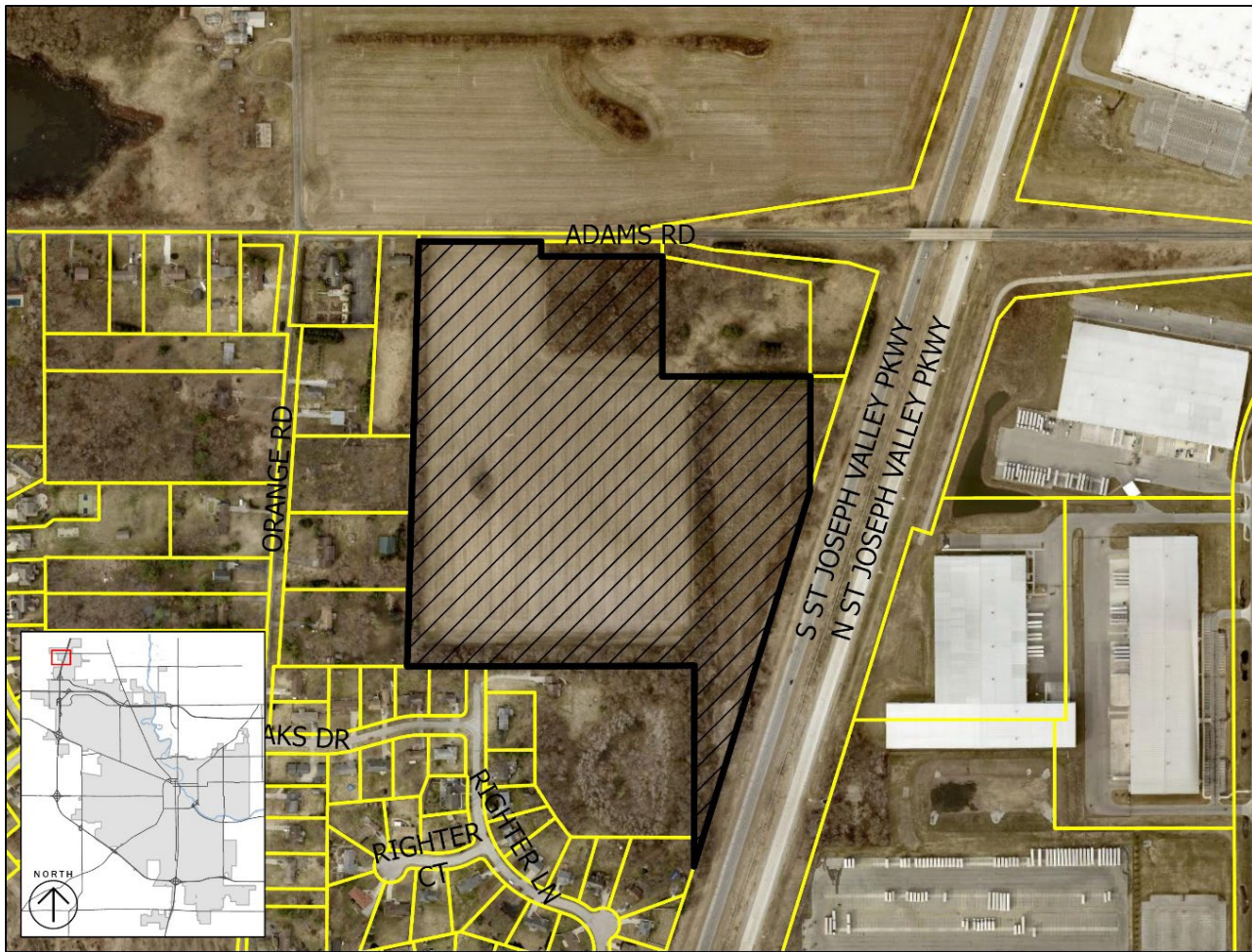
Project Summary

A request for barbed wire fencing surrounding an Indiana Michigan Power Company Service Center that provides office space, truck parking and repair, and material storage.

Requested Action

Variance(s): 1) to allow a fence constructed of barbed wire

Site Location



Staff Recommendation

Based on the information available prior to the public hearing, the Staff recommends the Board deny the variance.

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 variance for the barbed wire fence could be injurious to the morals and general welfare of the community because it is out of character for the area and would set a negative precedent for 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

Utilizing a barbed wire fence could adversely affect the use and value of the properties in the area.

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

A strict application of the ordinance would not result in practical difficulties in the use of the property. Constructing a fence without barbed wire would still allow for full use of the property.

(4) The variance granted is the minimum necessary

The variance granted would not be the minimum necessary. A security fence could be constructed without barbed wire.

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

The desire for barbed wire is self-created, as a security fence could be constructed around the site without the use of barbed wire.

Analysis & Recommendation

Analysis: Barbed wire is reserved for specific uses in the City, including utility sites such as electrical substations. While a security fence is permitted surrounding this property and meets the intent of the ordinance, allowing barbed wire on top of the fence is not appropriate for a service center.

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

Property Information

Location: 4202 WASHINGTON ST
Owner: JAIME BAUTISTA PLATA

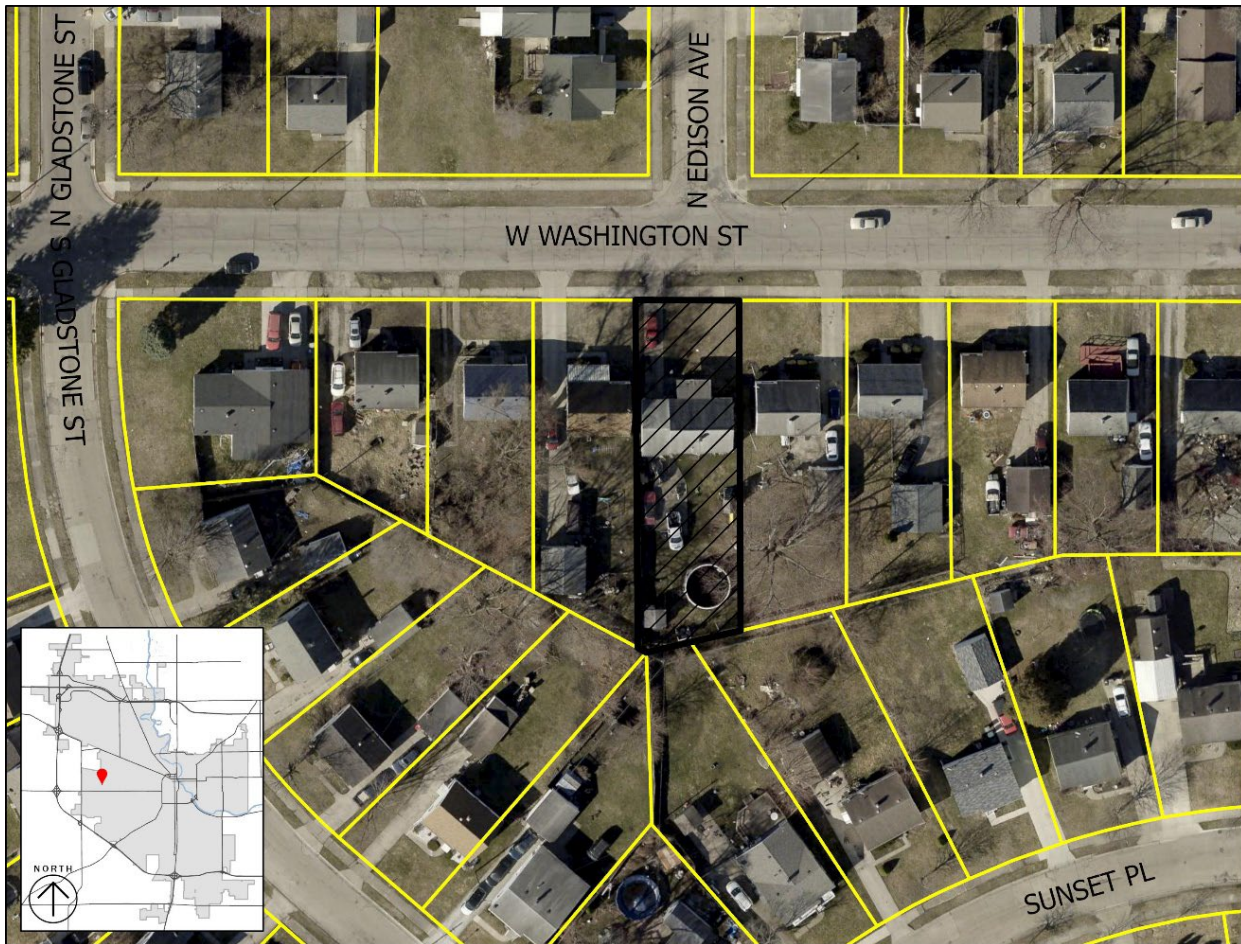
Project Summary

Building a porch onto an existing house

Requested Action

Variance(s): 1) from the minimum side-yard setback of 5' to 2' for the existing house and constructed porch

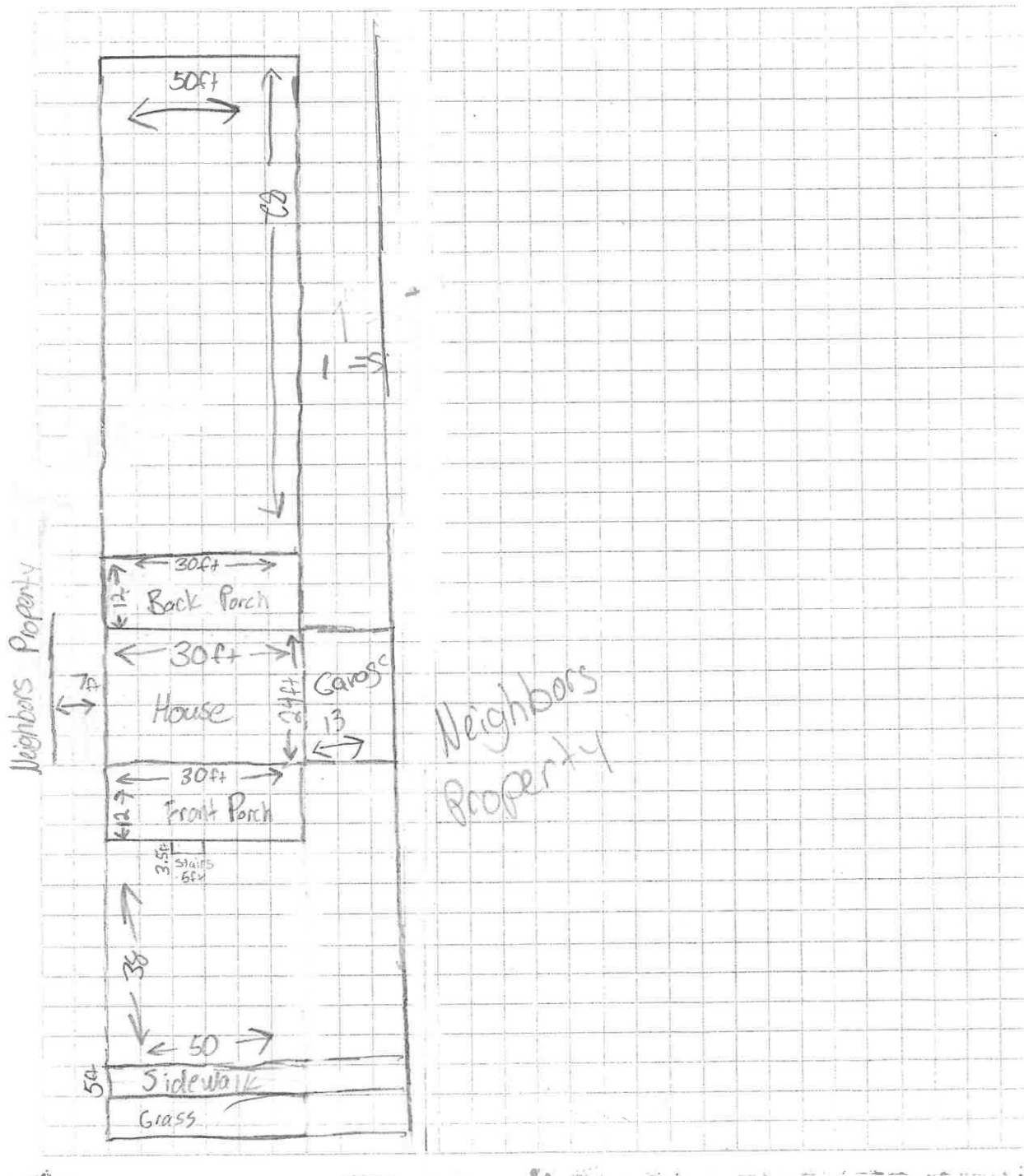
Site Location



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 approval should not be injurious to the public health, safety, morals and general welfare of the community as the new porch provides a safe, covered entry into the house.

(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 included in the variance should not be affected in a substantially adverse manner as the new porch is an improvement to their property and represents an investment in the neighborhood. Additionally, the fence will not encroach any further into the front setback and should not impact the 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 terms of this Chapter may result in practical difficulties in the use of the property. Due to the original placement of the house when built, a strict adherence to the side setback would not allow for the full front porch.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary. The new porch is just matching the existing setback of the home.

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

Built in 1950 with the current setbacks, the owner did not build the house and is making the best of the what they've been given. Any improvements to the home would have required a variance due to the nonconforming side setbacks.

Analysis & Recommendation

Analysis: Granting the variance will allow the new enlarged porch to remain with a 2' side setback. The request is consistent with the character of the area and meets 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: 1830 LEER ST
Owner: KATI KI S LIPSCOMB

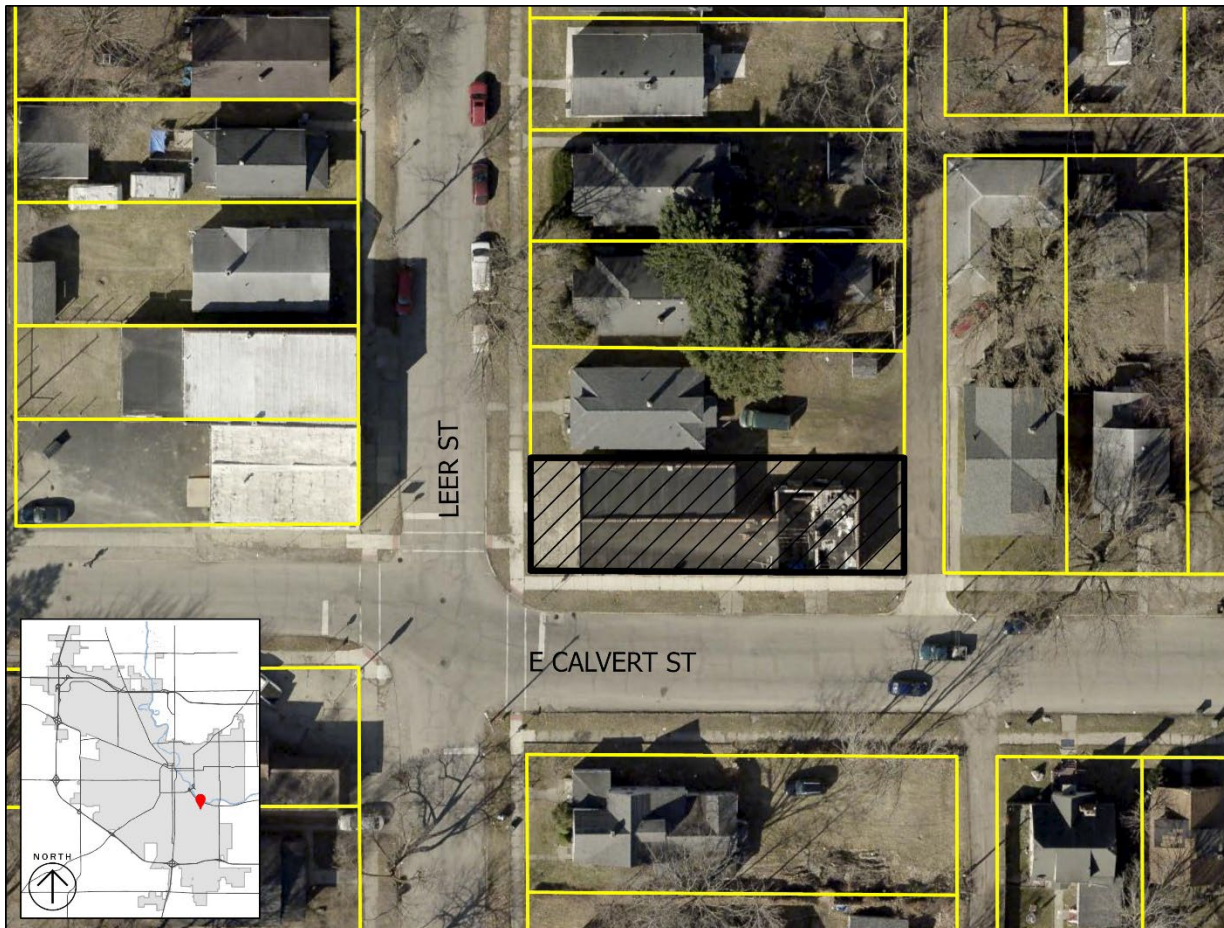
Project Summary

Establish a neighborhood sandwich shop.

Requested Action

Special Exception: a Restaurant

Site Location



Staff Recommendation

Based on information available prior to the public hearing, the Staff recommends the Plan Commission send the Special Exception to the Common Council with a favorable recommendation.

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, community moral standards, convenience or general welfare as any proposed restaurant will meet all applicable building and fire safety codes.

(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 building was designed and has historically been utilized as a corner retail/service space. The introduction of a restaurant will activate the building and enhance the neighborhood by offering a new local amenity.

(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 parcel is located on a small commercial node in a compact neighborhood, three blocks east of the Miami Street corridor. The proposed use as a small scale restaurant is consistent with the surrounding traditional neighborhood development pattern and will serve to enhance the area.

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

The proposed use is consistent with City Plan (2006), Objective LU2.1: Encourage developers to use planned unit and traditional neighborhood development models to promote land use compatibility in future developments. The parcel fronts a small commercial node that serves the community in a traditional neighborhood development pattern.

Analysis & Recommendation

Analysis: The building was designed and has historically been utilized as a corner retail/service space. Introducing a small-scale restaurant will activate the building and enhance the neighborhood by offering a new local amenity.

Staff Recommendation: Based on information available prior to the public hearing, the Staff recommends the Plan Commission send the Special Exception to the Common Council with a favorable recommendation.