

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, June 7, 2021 - 4:00 p.m.
County-City Building
Fourth-Floor Council Chambers
Virtual Option: www.tinyurl.com/sbbza

PUBLIC HEARING:

1. **Location:** 1804 CALVERT ST BZA#0056-21
Owner: ANDREW R GRIFFITH
Requested Action: Variance(s): 1) from a 3' maximum height for a solid fence in the established corner yard to 6'
Zoning: U1 Urban Neighborhood 1
2. **Location:** 930 RIVERSIDE DR BZA#0057-21
Owner: WILLIAM AND SHANNON BREWSTER
Requested Action: Variance(s): 1) From the 5' minimum side setback to 3'
Zoning: U1 Urban Neighborhood 1
3. **Location:** 1140 SUNNYMEDE AVE BZA#0060-21
Owner: RICHARD P & ANN E JOHNSON
Requested Action: Variance(s): 1) from the 5' minimum side setback to 2.5'
Zoning: U1 Urban Neighborhood 1
4. **Location:** 707 REX ST BZA#0055-21
Owner: HOMETOWNE DEVELOPMENT LLC
Requested Action: Special Use: Dwelling, 2 units
Zoning: U1 Urban Neighborhood 1
5. **Location:** 2001 Washington Street BZA#0061-21
Owner: SOUTH BEND PROPERTIES LLC
Requested Action: Variance(s): 1) From the 50' minimum side setback to 30'
Special Exception: Heavy Industrial Use
Zoning: I Industrial
6. **Location:** 917 LINCOLNWAY BZA#0062-21
Owner: ANDRA PULLUIAM
Requested Action: Special Exception: Restaurant
Zoning: UF Urban Neighborhood Flex

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – May 10, 2021
2. Minutes – May 10, 2021
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

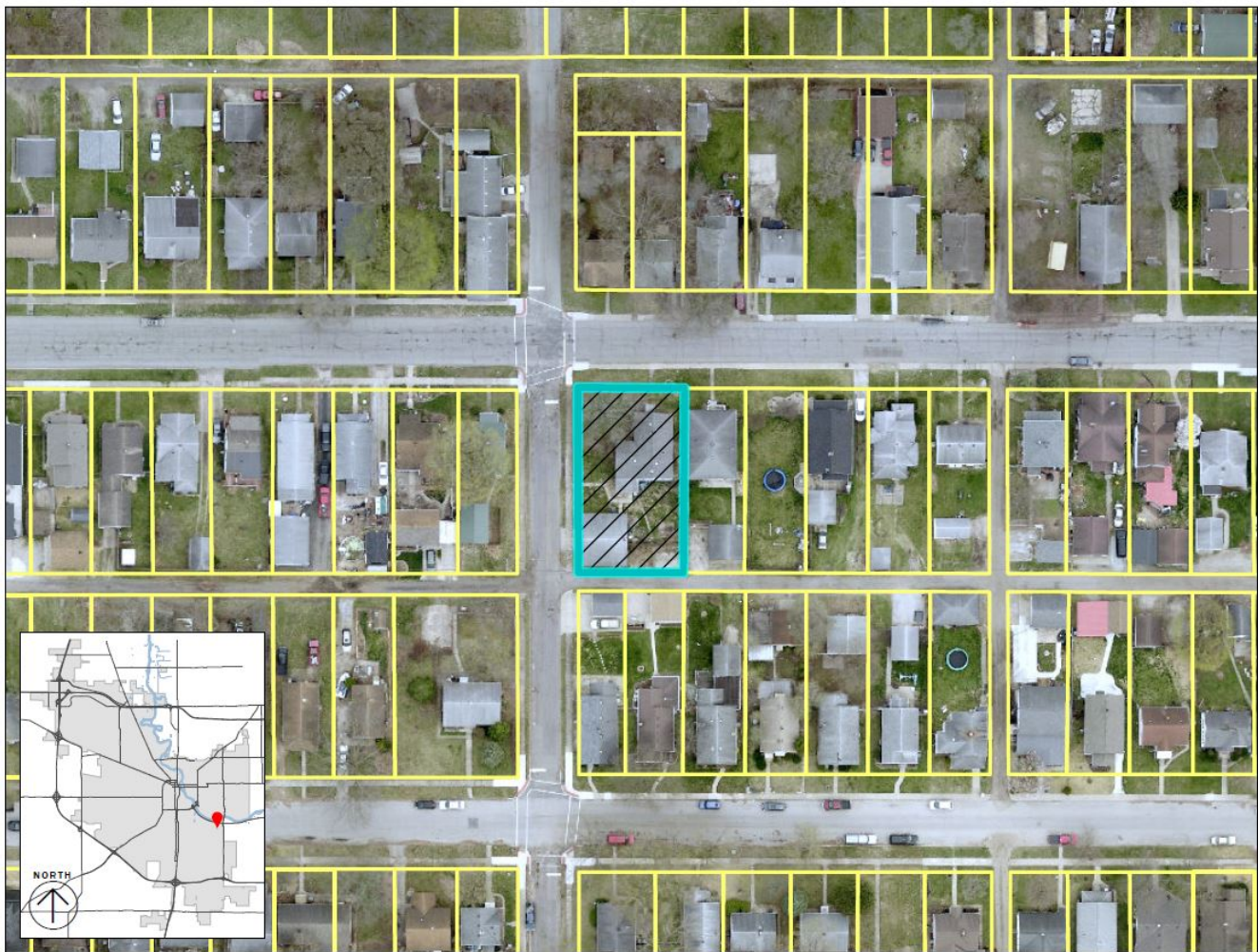
Location: 1804 E CALVERT ST
Owner: ANDREW R GRIFFITH

Project Summary

Replace the chain link fencing with privacy fencing to match the other portion.

Requested Action

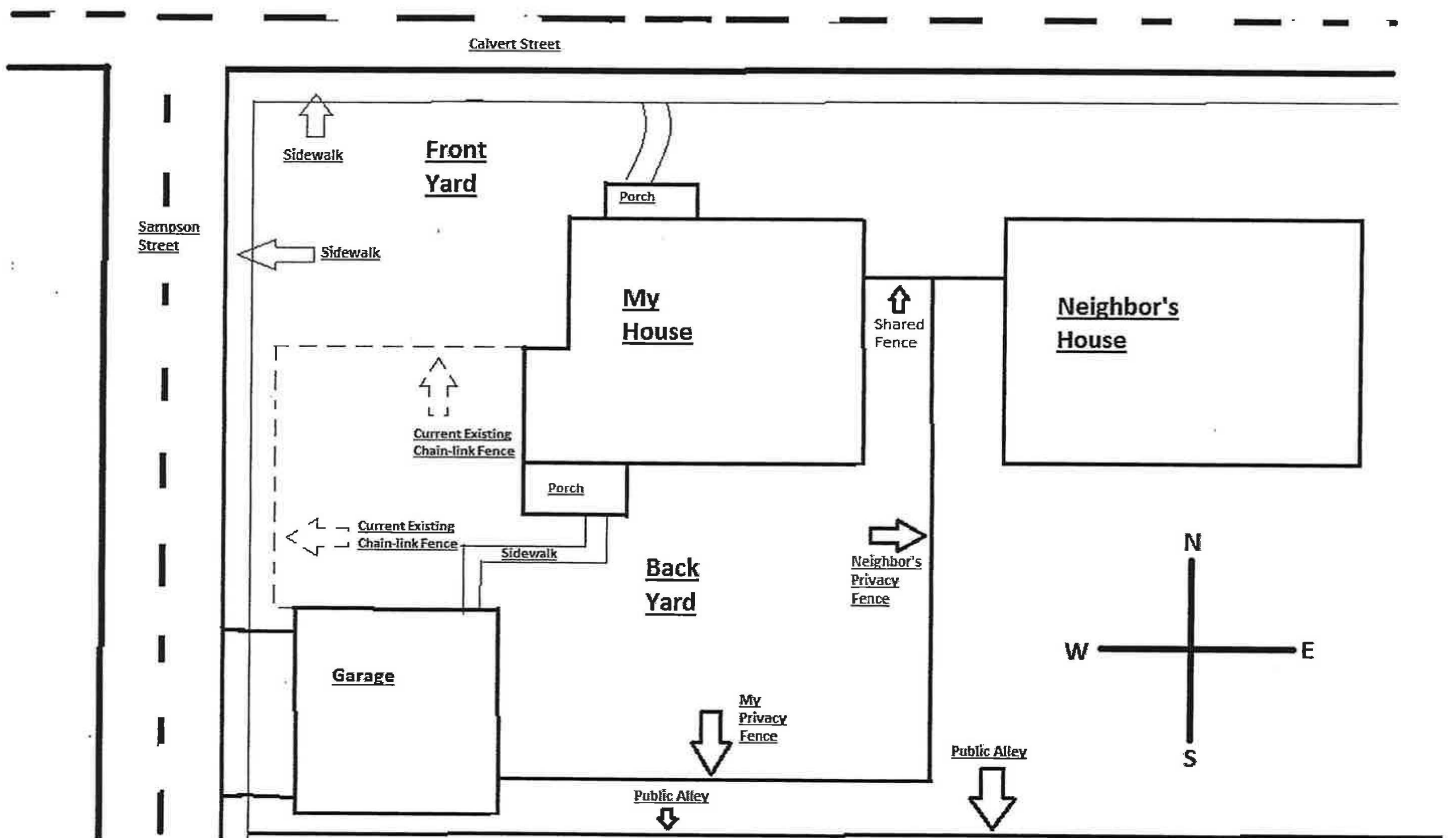
Variance(s): 1) from a 3' maximum height for a solid fence in the established corner yard to 6'

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

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 provide more significant setbacks.

(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. A slight variance may be justified to allow for the door to the garage to be incorporated in the fenced area. As the property is a double lot, the slight variance would have minimal negative impacts on surrounding properties.

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: 930 RIVERSIDE DR
Owner: WILLIAM AND SHANNON BREWSTER

Project Summary

Addition on the north-east corner of house to enlarge existing kitchen and family room.

Requested Action

Variance(s): 1) From the 5' minimum side setback to 3'

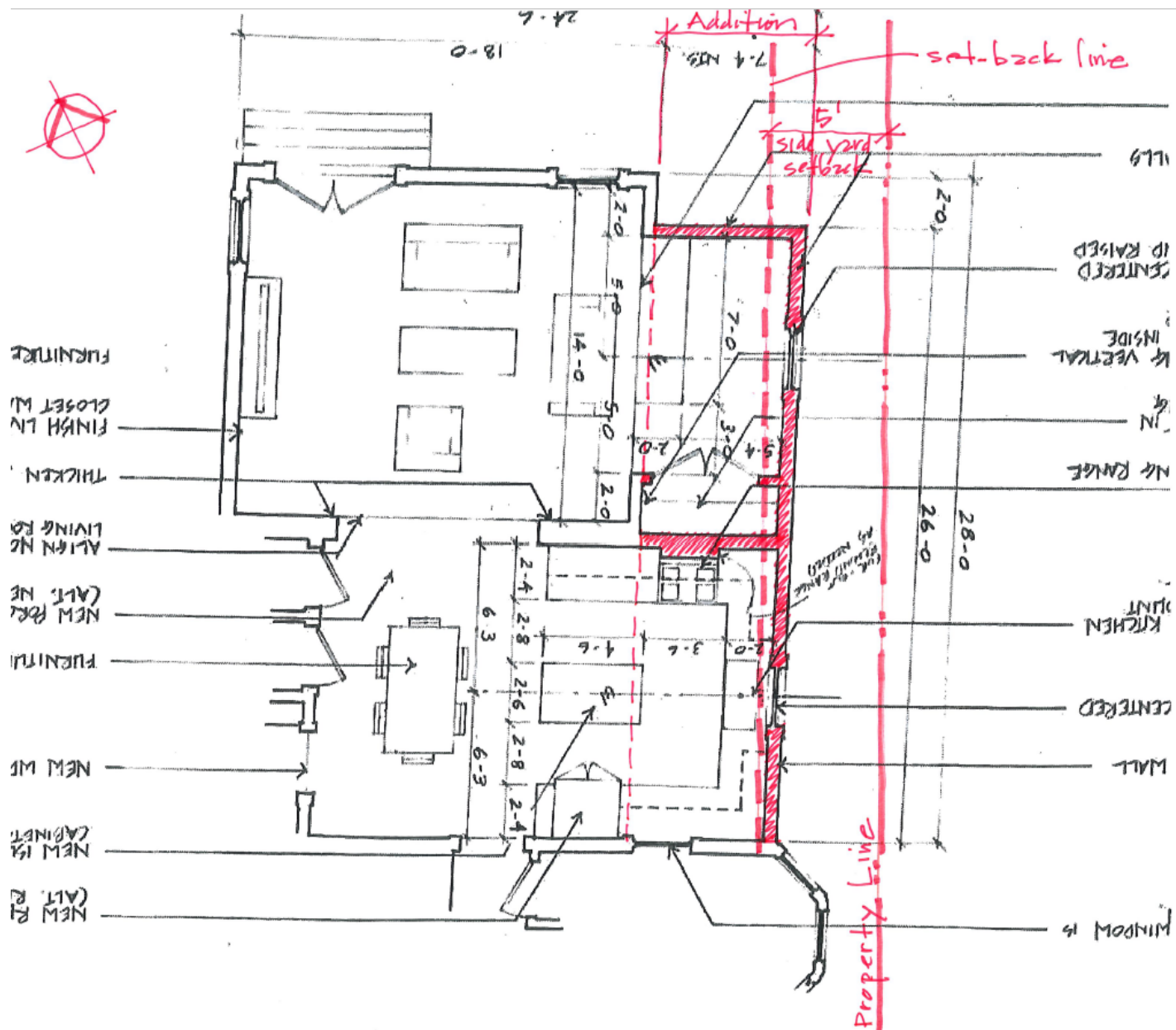
Site Location



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

Minimum setbacks are established to set the bare minimum needed in order to protect the health, safety, and general welfare of the community. Granting a variance would greatly reduce access to the rear of the property, since the only access to the rear portion of these properties is between the homes due to their location along the river. Maintaining a minimum of 10' between structures is critical for emergency access and public safety.

(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 property may be adversely affected if the variance is granted. A smaller setback could lead to difficulties in maintaining both properties as well as setting precedence for expanding all houses of the neighborhood into the side setback without just cause.

(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 result in practical difficulties in the use of the property. There is nothing unique about the property that creates difficulty in the residential use of the property.

(4) The variance granted is the minimum necessary

The variance granted is not the minimum necessary. The house could be expanded, with slight modifications, at the side setback with similar results.

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

The variance requested is an attempt to enlarge the current size of the house. The variance requested is caused by the owners desire to expand their home in a particular way, not a hardship of the property.

Analysis & Recommendation

Analysis: There are no practical difficulties or unique characteristics that support the variance requested. The Ordinance recognizes certain architectural features encroaching into the side setbacks, like the current bay window. Extending the main living area of the home into the setback, however, does not meet the intent of the ordinance or the criteria for variance approval. Minimum setbacks, especially along the side lot line, are critical for maintaining adequate light, air, and safety standards.

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: 1140 SUNNYMEDE AVE
Owner: RICHARD P & ANN E JOHNSON

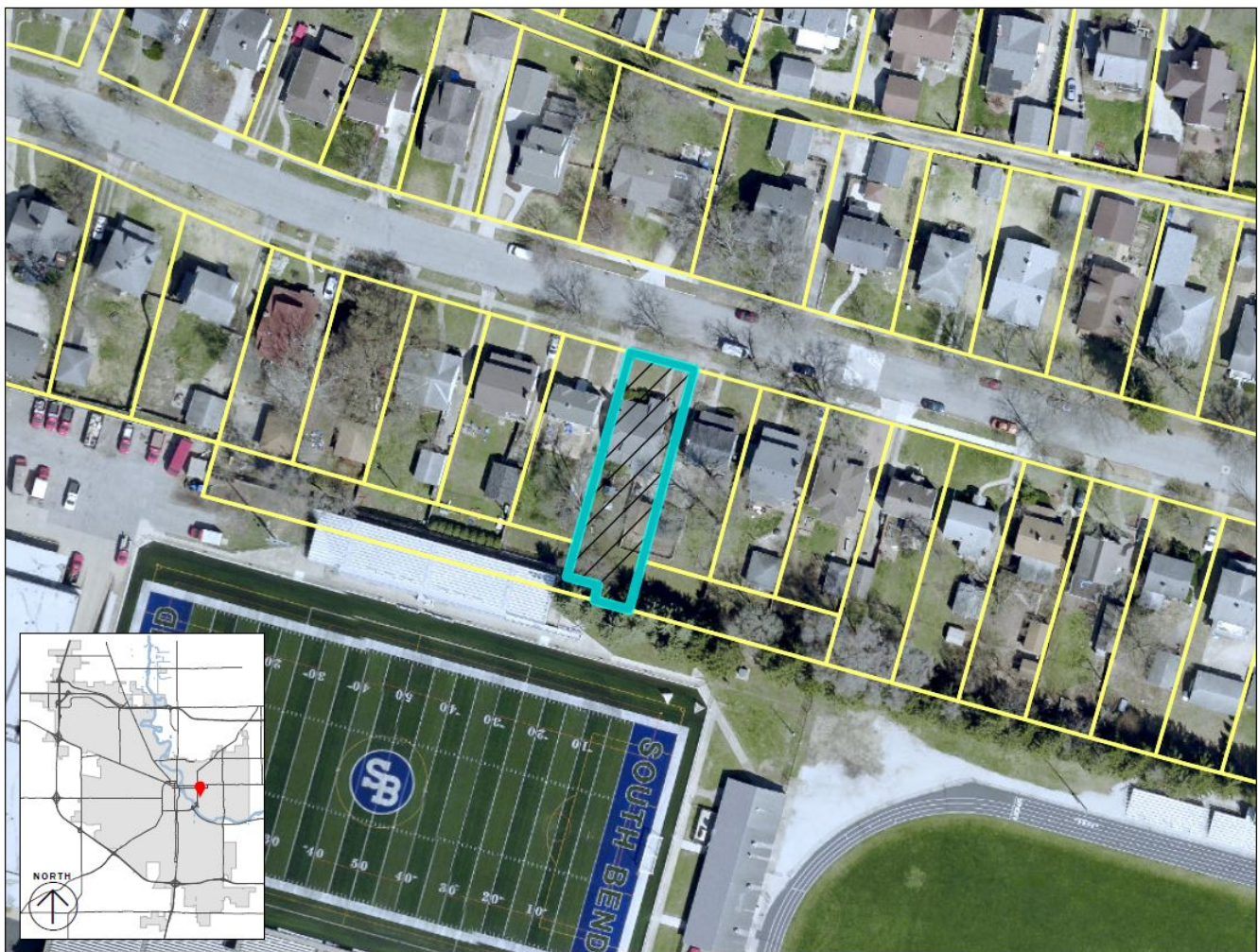
Project Summary

Rebuild the garage at the current 2.5 feet setback from the property line.

Requested Action

Variance(s): 1) from the 5' minimum side setback to 2.5'

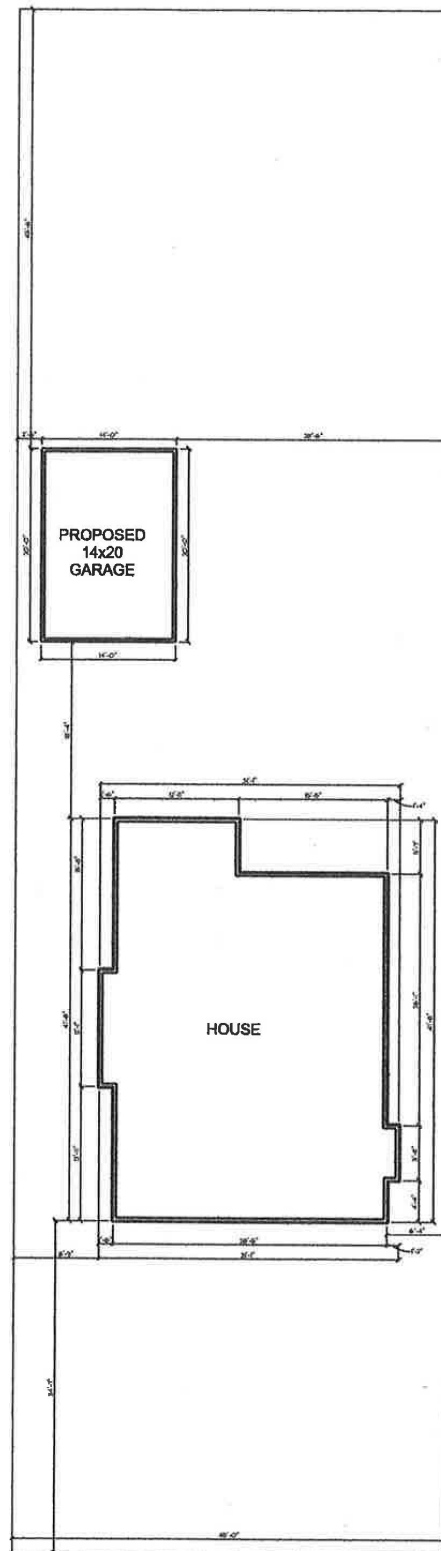
Site Location



Staff Recommendation

The staff recommends the Board approves the variance as presented, subject to retaining all water run-off onsite.

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

Because this is a replacement of an existing garage in a near identical side setback, it should not affect the general welfare of the community. Allowing the setback variance will preserve the historical development pattern of the neighborhood.

(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

There is currently a structure in nearly the same location. Replacing an older, dilapidated garage with a newer, more attractive structure would not adversely affect the adjacent property.

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

Due to the original placement of the house, garage, and driveway a strict adherence to the side setback would force the garage into an impractical location making maneuverability of the cars difficult and dangerous.

(4) The variance granted is the minimum necessary

The neighborhood developed with a pattern of detached garages being installed at or near the property line. The physical constraints of the site make a 2.5' setback necessary.

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

The garage being replaced was built in 1925 when the house was constructed. Both were permitted at the time.

Analysis & Recommendation

Analysis: Provided the owner can retain the water run-off from the roof, building a new garage at a similar side setback as the existing garage should not adversely impact the surrounding properties or the general welfare of the community. The surrounding neighborhood of Sunnymede developed with a pattern of detached garages being installed at or near the property lines. Approving the variance would be in line with the established neighborhood development.

Staff Recommendation: The staff recommends the Board approves the variance as presented, subject to retaining all water run-off onsite.

Property Information

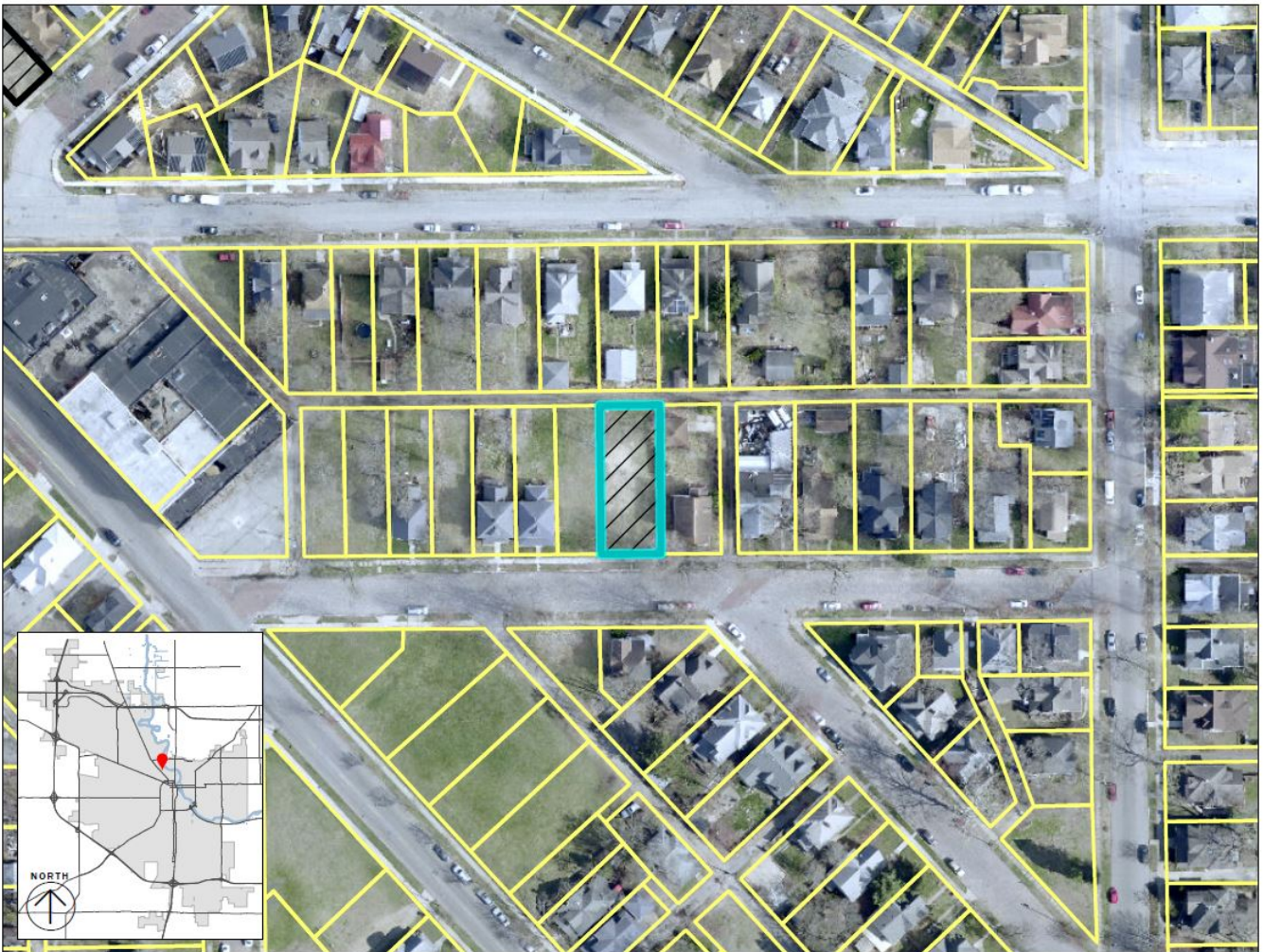
Location: 707 REX ST
Owner: HOMETOWNE DEVELOPMENT LLC

Project Summary

Proposing to build an approximately 32 x 36 ' duplex (960 sq. ft x 2 floors) on currently vacant lot.

Requested Action

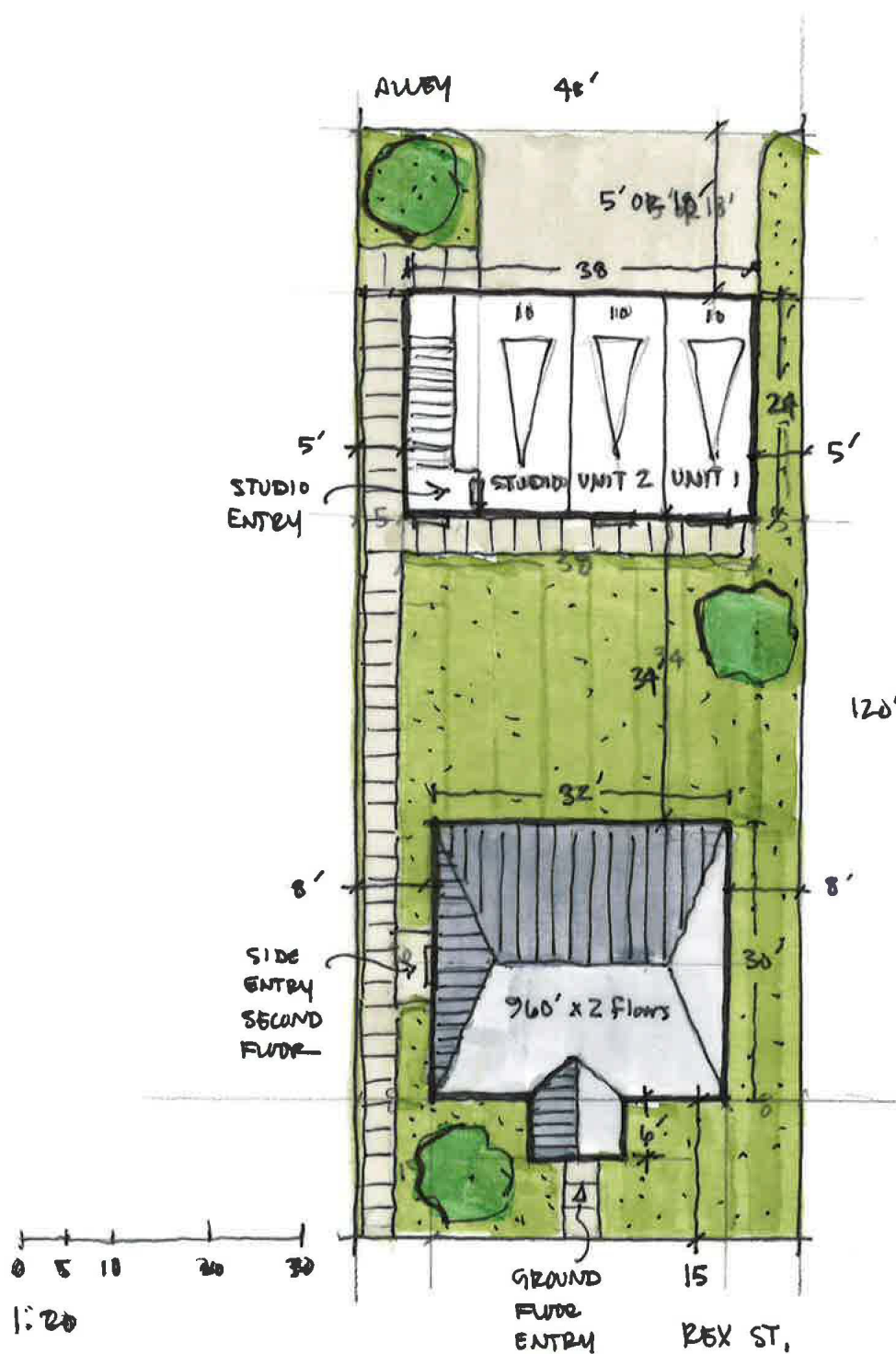
Special Exception: Dwelling, 2 units

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 as presented.

Proposed Site Plan



Criteria for Decision Making: Special Exception

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;

Approval of the Special Exception will not be injurious to the public health, safety, morals and general welfare of the community. The scale of the proposed duplex is comparable to a single family home and will be used for residential use. Reactivating a vacant lot will provide more residents to the neighborhood which will increase safety and the 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;

Adding a duplex on a currently vacant lot should not injure or adversely affect the use of the adjacent area or property values. The addition of the duplex will further the work being done in the neighborhood to provide more residential opportunities. New construction that fits the scale of the current residential properties should strengthen nearby property values.

(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 current context of the neighborhood provides a mix of single family homes, duplexes and small commercial properties along Portage Ave. This duplex will be consistent with the character of the district and neighborhood in both uses and style of construction.

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

The Comprehensive Plan recommends "Encourage residential developments to contain a mix of housing types, densities, price ranges, and amenities. (Policy H1.1) This proposed duplex is in line with the recommendation from the Comprehensive Plan by helping establish a mix of housing types.

Analysis & Recommendation

Analysis: The proposed construction of a duplex will further complement the wide range of development occurring currently in the surrounding area, as well as providing more diverse housing types for residents.

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 as presented.

Property Information

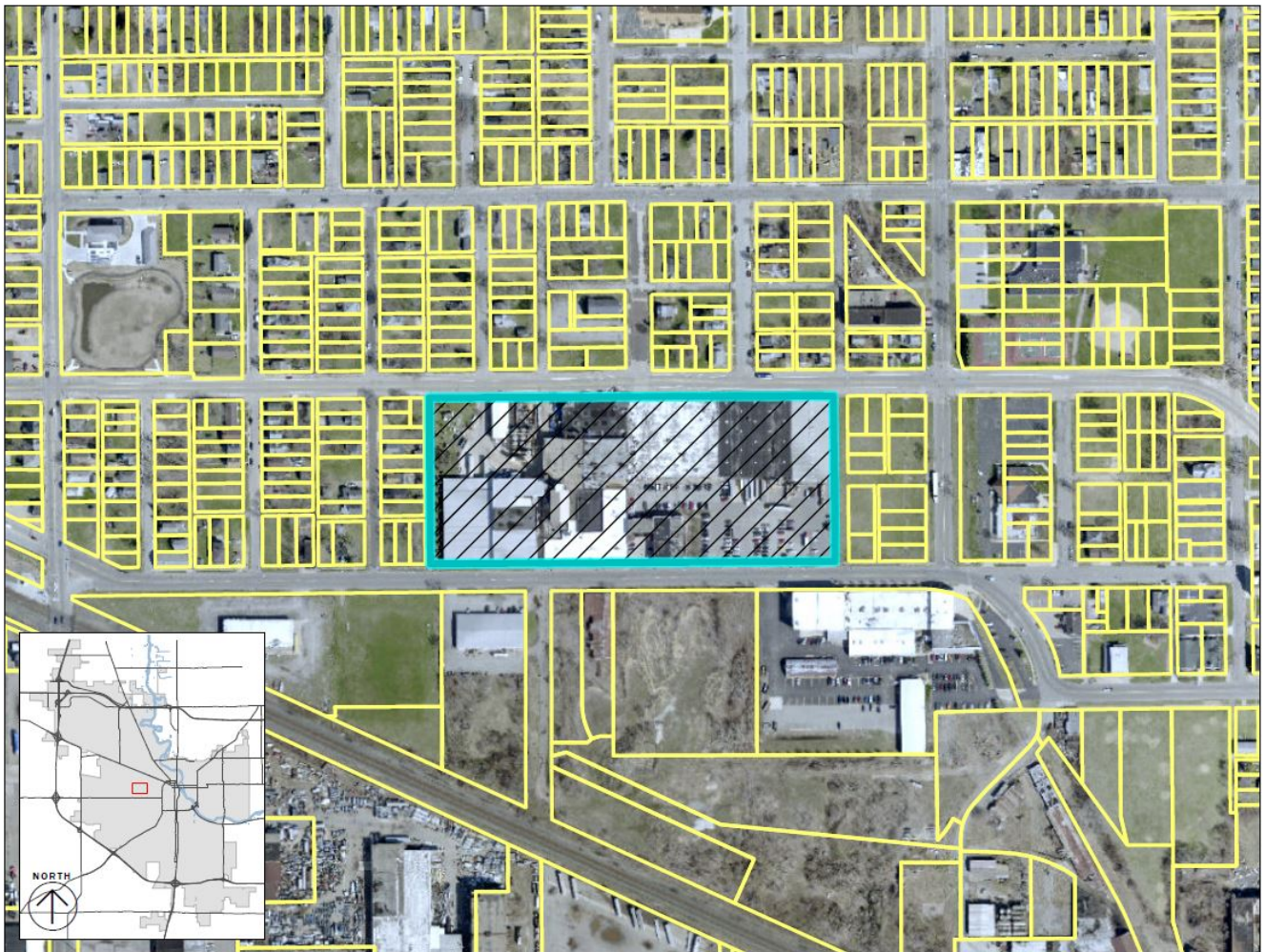
Location: 2001 Washington Street
Owner: SOUTH BEND PROPERTIES LLC

Project Summary

This project involves the installation of a new Liquid Nitrogen Tank, related equipment and a concrete pad for it all to be mounted on.

Requested Action

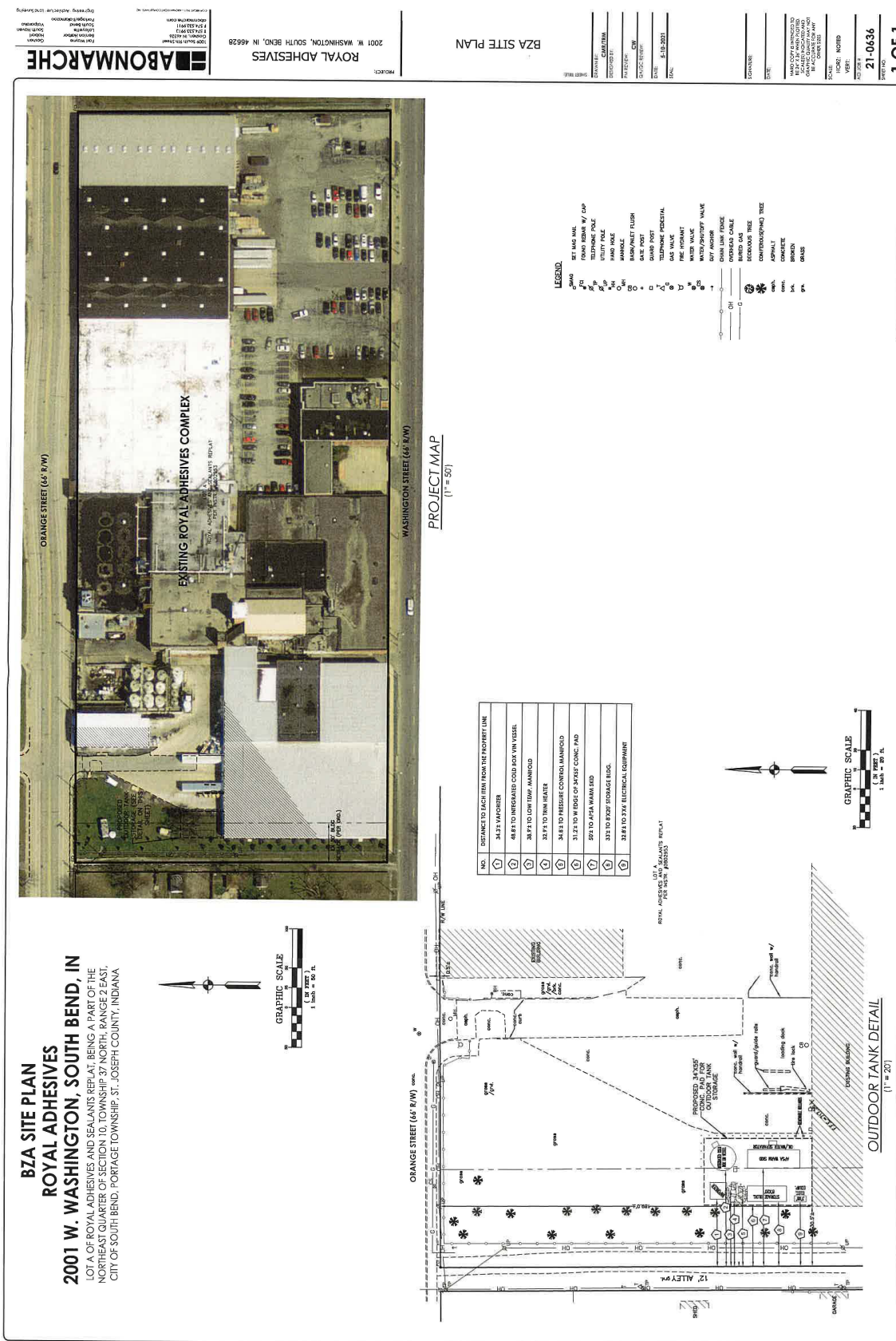
Special Exception: Heavy Industrial Use
Variance(s): 1) From the 50' minimum side setback to 30'

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. The staff recommends approval of the variance as presented.

Proposed Site Plan



Criteria for Decision Making: Special Exception

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;

With proper buffering, the proposed use should not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.

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

The site is already being used for heavy industrial uses and is well established in the neighborhood. The minimal expansion of the footprint of the site which conducts heavy industrial uses should not adversely affect the use of the adjacent areas.

(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 proposed use of heavy industry is consistent with the character of the district in which it is located. The site has a long term-history as a being used for industrial uses. Allowing the Special Exception will allow for the building to be used in its intended manner.

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

The petition is consistent with City Plan (2006) (Objective ED2) Retain existing businesses and recruit new ones to the city. Allowing heavy industry use on this site will help retain a business 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

With proper buffering, approval of the setback variance should not affect the public health, safety, 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

Because the proposed use is not any closer to the property line than the existing building and will contain the appropriate buffer landscaping, the use and value of the adjacent properties should not be adversely 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 ordinance would require the remove of existing building or block critical access points to the site.

(4) The variance granted is the minimum necessary

The proposed layout has been designed so as to require the minimum variance necessary and to have the least amount of impact on adjacent property owners.

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

Changes in operation and improvements in fire safety and lead to the need for the new facility. The constraints of the site have developed over time as the long-standing industrial business has expanded within the footprint of the site.

Analysis & Recommendation

Analysis: The proposed use of heavy industry is consistent with the character of the district in which it is located. The site has a long history of a being used for industrial uses. The Special Exception will allow for the implementation of a new process that will support and improve current operations, allowing the business to remain in South Bend. The propose variance will provide the appropriate buffering within the constraints of a very limited site.

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. The staff recommends approval of the variance as presented.

Property Information

Location: 917 LINCOLNWAY
Owner: ANDRA PULLUIAM

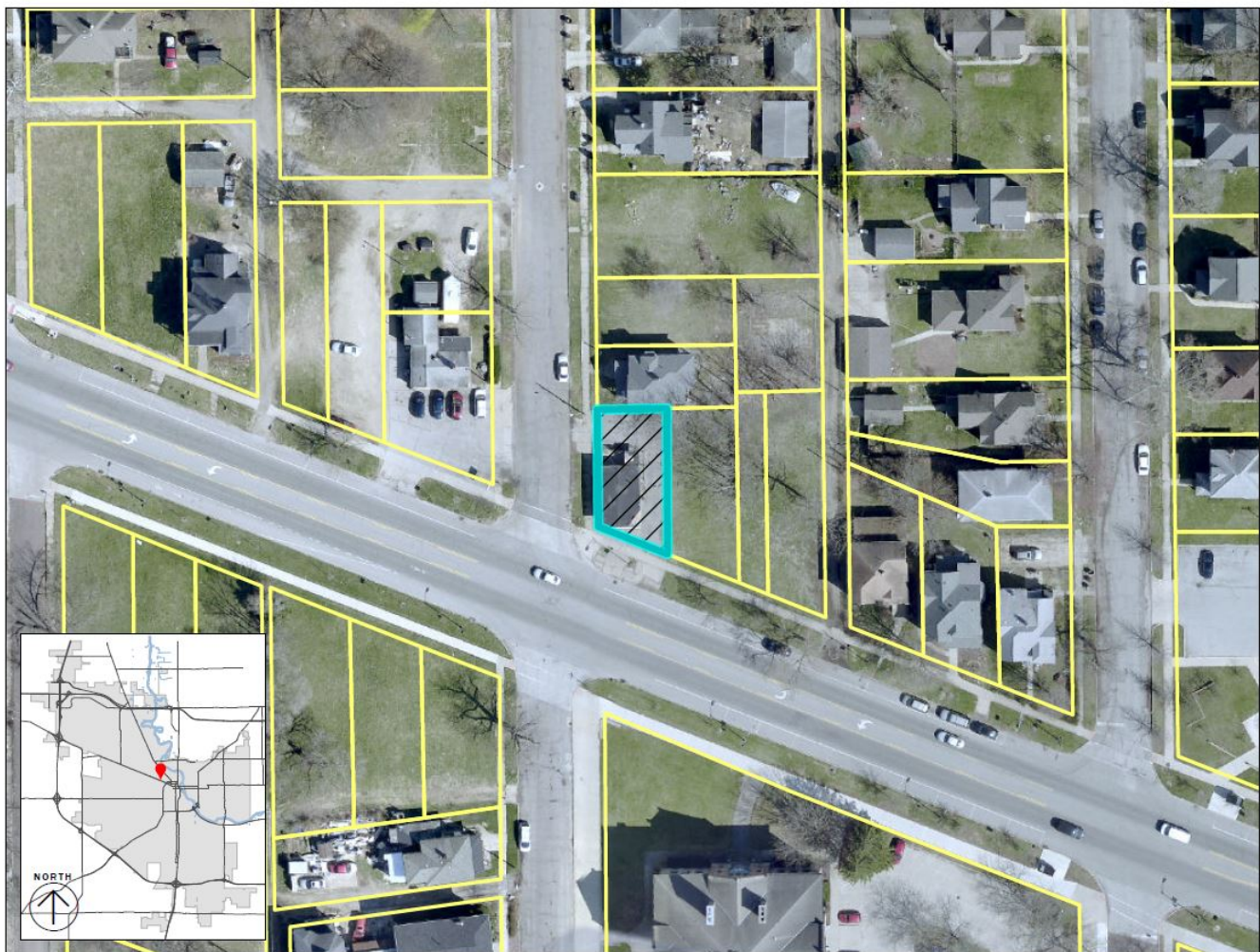
Project Summary

To allow the use of the building as a carry out restaurant.

Requested Action

Special Exception: Restaurant

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.

Proposed Site Plan



Criteria for Decision Making: Special Exception

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 proposed use is appropriate for the location and should not be injurious to the public health, safety, or 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 use is proposed to locate in a building that was previously a carry out restaurant along a commercial corridor, so it should not adversely impact the use or value of adjacent properties. Reinvesting in the existing building should improve the site.

(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 site is located along a commercial corridor with a mix of commercial and residential uses. The proposed use is consistent with the character of the UF Urban Flex District and the Lincoln Way West Corridor.

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

City Plan (2006) (Objective ED2) recommends the city "Retain existing businesses and recruit new ones to the city." Allowing a restaurant use on this site will help recruit a new business to the city in an appropriately located area.

Analysis & Recommendation

Analysis: The site had been used as a carry out restaurant for many years. Allowing the use to be reestablish on the commercial corridor will allow a vacant building to be rehabilitated into an active business.

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.