

# City of South Bend

## BOARD OF ZONING APPEALS

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### AGENDA

**Monday, March 2, 2020 - 4:00 p.m.**  
County-City Building  
Fourth-Floor Council Chambers

#### PUBLIC HEARING:

1. **Location:** 1540 HOOVER AVE BZA#0001-20  
**Owner:** TIMOTHY WRIGHT & DIANE GLEASON WRIGHT  
**Requested Action:** Variance(s): 1) From the 5' minimum side yard setback to 0'  
**Zoning:** S1 Suburban Neighborhood 1
  
2. **Location:** 4201, 4209, and 4133 MAIN BZA#0002-20  
**Owner:** TRUSTEES OF THE TRUST 1/29/1983  
**Requested Action:** Variance(s): 1) From the 40' maximum building height to 48'  
**Zoning:** C Commercial
  
3. **Location:** 1939 CHARLES ST BZA#0003-20  
**Owner:** FTC PROPERTIES LLC  
**Requested Action:** Variance(s): 1) To allow a 1 unit dwelling directly along the street frontage;  
2) To allow a Detached House Building Type in the NC district; and 3) From the 12'  
maximum setback to 36.24'  
**Zoning:** NC Neighborhood Center
  
4. **Location:** 4921 BLACKFORD DR BZA#0004-20  
**Owner:** STEPHEN GREGORY AND COURTNEY MARIE ROACH  
**Requested Action:** Variance(s): 1) From the maximum 6' fence height to 8' along the rear  
property line  
**Zoning:** S1 Suburban Neighborhood 1
  
5. **Location:** 1116 MAIN ST and 122 GARST ST BZA#0005-20  
**Owner:** BHOLA SINGH  
**Requested Action:** Variance(s): 1) From the 4' maximum fence height in an established front  
or corner yard to 6'  
**Zoning:** C Commercial

6. **Location:** 1000 block of Howard & Corby, 1100 block of South Bend Ave., and 900 block of Frances St. **BZA#06-20**  
**Owner:** UNIVERSITY OF NOTRE DAME DU LAC, PHILIP SLATT, AND FIVE CORNERS LLC  
**Requested Action:** Variance(s): 1) From the requirement that the primary facade shall be oriented to a front lot line or open space; 2) From the 60% minimum transparency for ground floor front facade to 30% on Howard and from the 20% minimum transparency for a corner facade to 0% on State Road 23; and 3) From the minimum parking setback of 5' behind the front or corner facade to allow parking at the building line  
**Zoning:** NC Neighborhood Center
7. **Location:** 1237 NORTHSIDE BLVD **BZA#0007-20**  
**Owner:** MULBERRY HILL LLC  
**Requested Action:** Variance(s): 1) To allow outdoor animal care activity in an established front yard.; 2) From the required Type 3 buffer to a 6' screening fence; and 3) From the maximum 3' high fence to 6' in an established front yard  
**Zoning:** I Industrial

**ITEMS NOT REQUIRING A PUBLIC HEARING:**

1. Other Business
2. 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.

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**Property Information**

Location: 1540 HOOVER AVE  
Owner: TIMOTHY WRIGHT & DIANE GLEASON WRIGHT

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**Project Summary**

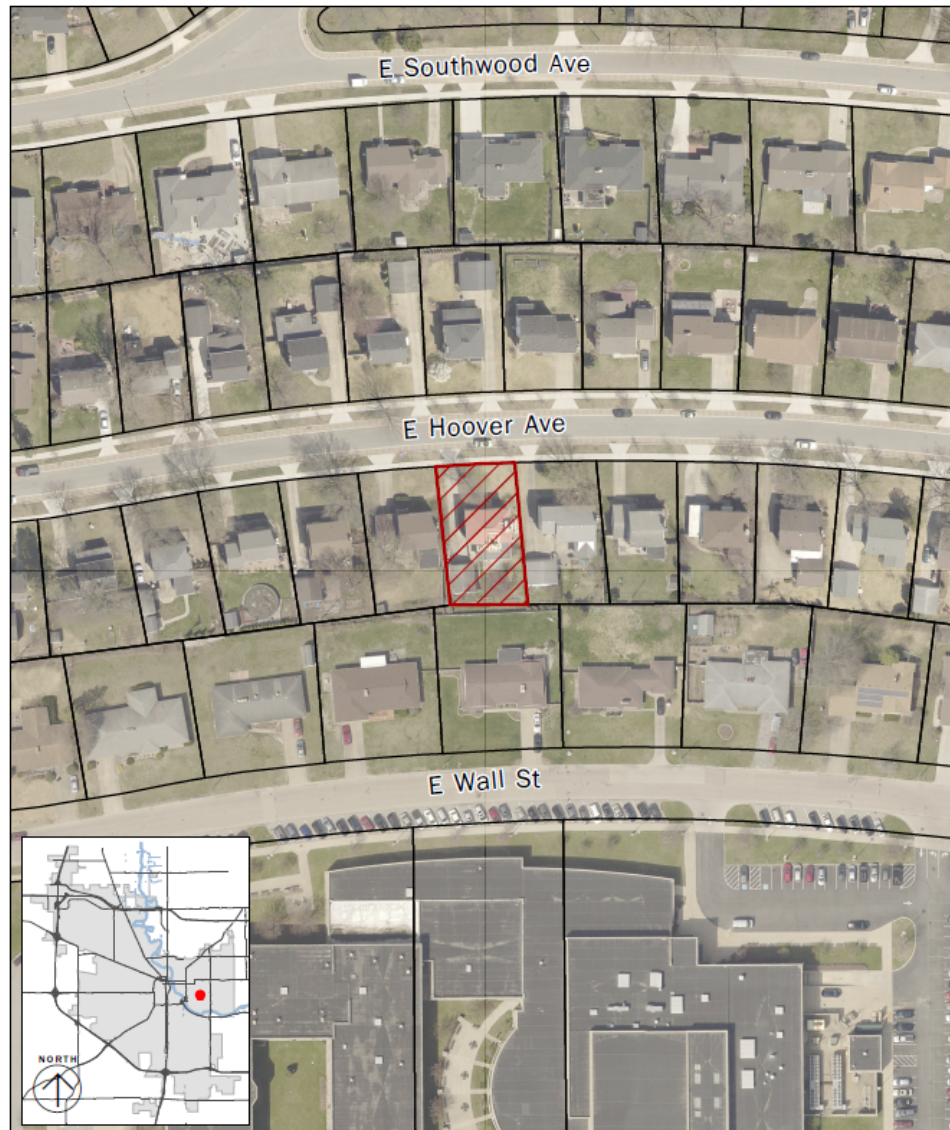
Tear down original garage and replace with new garage

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**Requested Action**

Variance(s): 1) From the 5' minimum side yard setback to 0'

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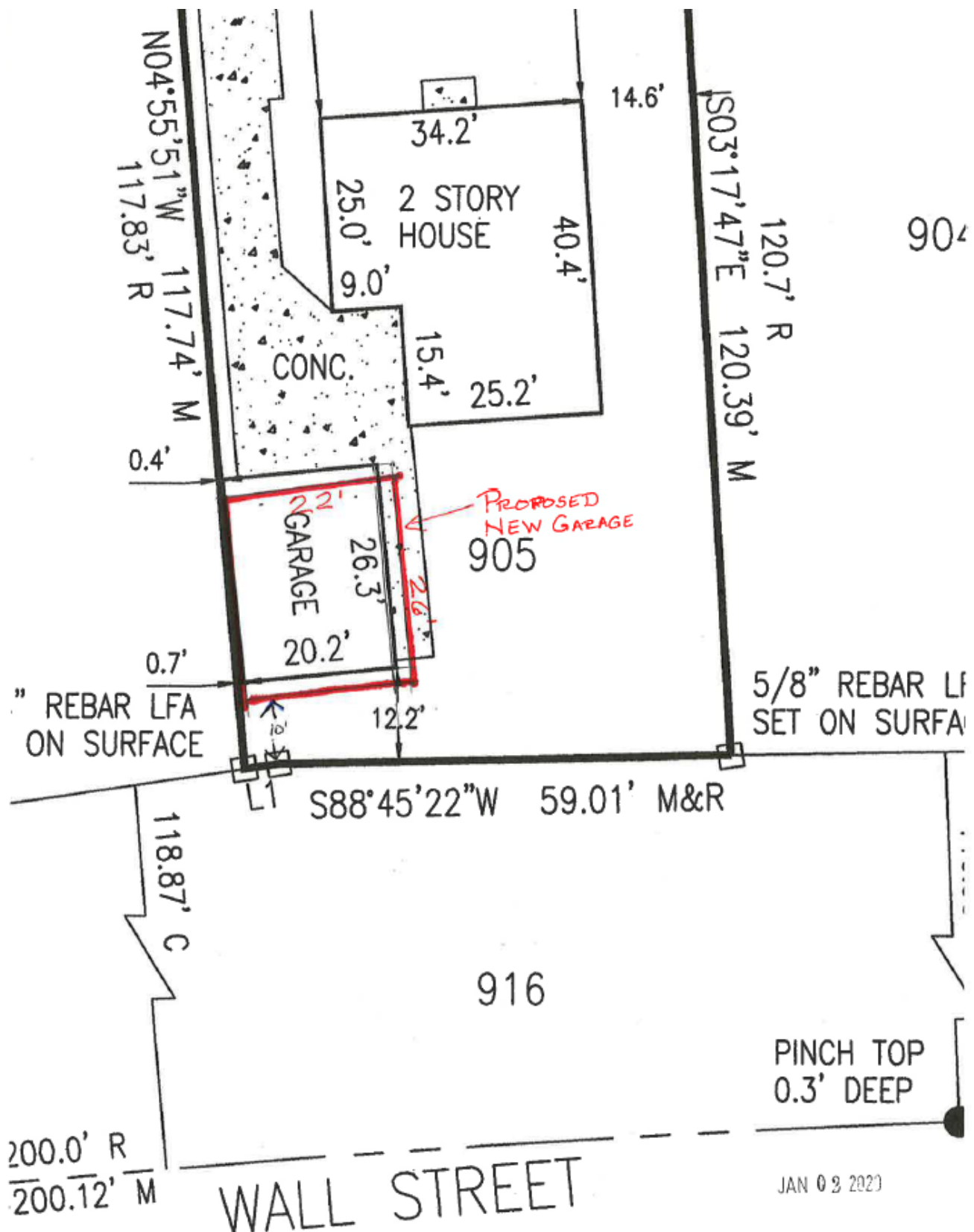
**Site Location**

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**Staff Recommendation**

The staff recommends the Board approves the variances 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 location, 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 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. A utility easement and existing utility pole interfere with the ability to move the garage farther back to allow for adequate access at a 5' setback.

**(4) The variance granted is the minimum necessary**

The neighborhood had developed with a pattern of detached garages being installed at or near the property line. The physical constraints of the site make a 0' setback necessary.

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

The garage being replaced was built in 1952 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, rebuilding the existing garage in the same location as the existing garage should not adversely impact the surrounding properties or the general welfare of the community.

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



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**Property Information**

Location: 4201, 4209, and 4133 MAIN  
Owner: TRUSTEES OF THE TRUST 1/29/1983

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**Project Summary**

The Petitioner desires to construct a new four (4)-story hotel located at the northwest corner of Main Street and Lafayette Boulevard.

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**Requested Action**

Variance(s): 1) From the 40' maximum building height to 48'

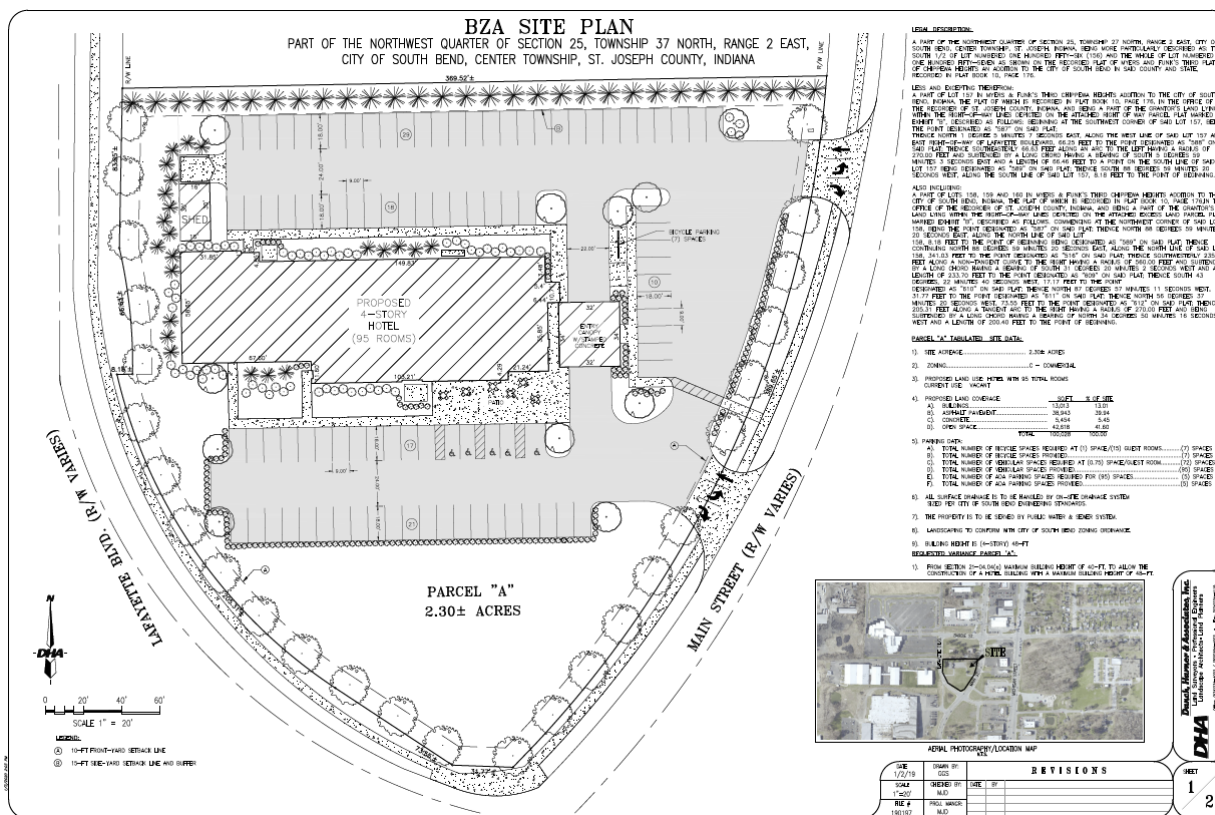
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**Site Location**

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**Staff Recommendation**

The staff recommends the Board approve the variance as presented.

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### 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 location of the building on the site, the increased height requested would not be injurious to the public health, safety, morals and general welfare of the community. All state and local building code requirements will be met and the setback of the property to keep it located away from nearby intersections will not create vehicular sight issues.

**(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 building is set back a significant distance from the residential property to the north and all required buffering is being installed, the impact that the increased height may have on adjacent properties is minimized.

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

Under the previous zoning, the height of the building would have been permitted. Strict application of the new zoning ordinance would prohibit development of the site for the intended use.

**(4) The variance granted is the minimum necessary**

The variance granted is the minimum necessary to build a fourth story on the property. The request for a maximum height of 48' allows a fourth story to be added to the hotel while limiting any further height increase.

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

The variance does not correct a hardship caused by a former or current owner of the property. Before the adoption of the new Zoning Ordinance on January 1st, 2020, this property was zoned CB Community Business District, which had a maximum height of 50'. If that zoning was currently in place, the variance would not have been necessary.

### Analysis & Recommendation

**Analysis:** The zoning ordinance change precipitated the need for the variance, and the variance should not adversely affect surrounding properties. Allowing the extra height helps redevelop this site to a use suitable for its location.

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



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**Property Information**

Location: 1939 CHARLES ST  
Owner: FTC PROPERTIES LLC

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**Project Summary**

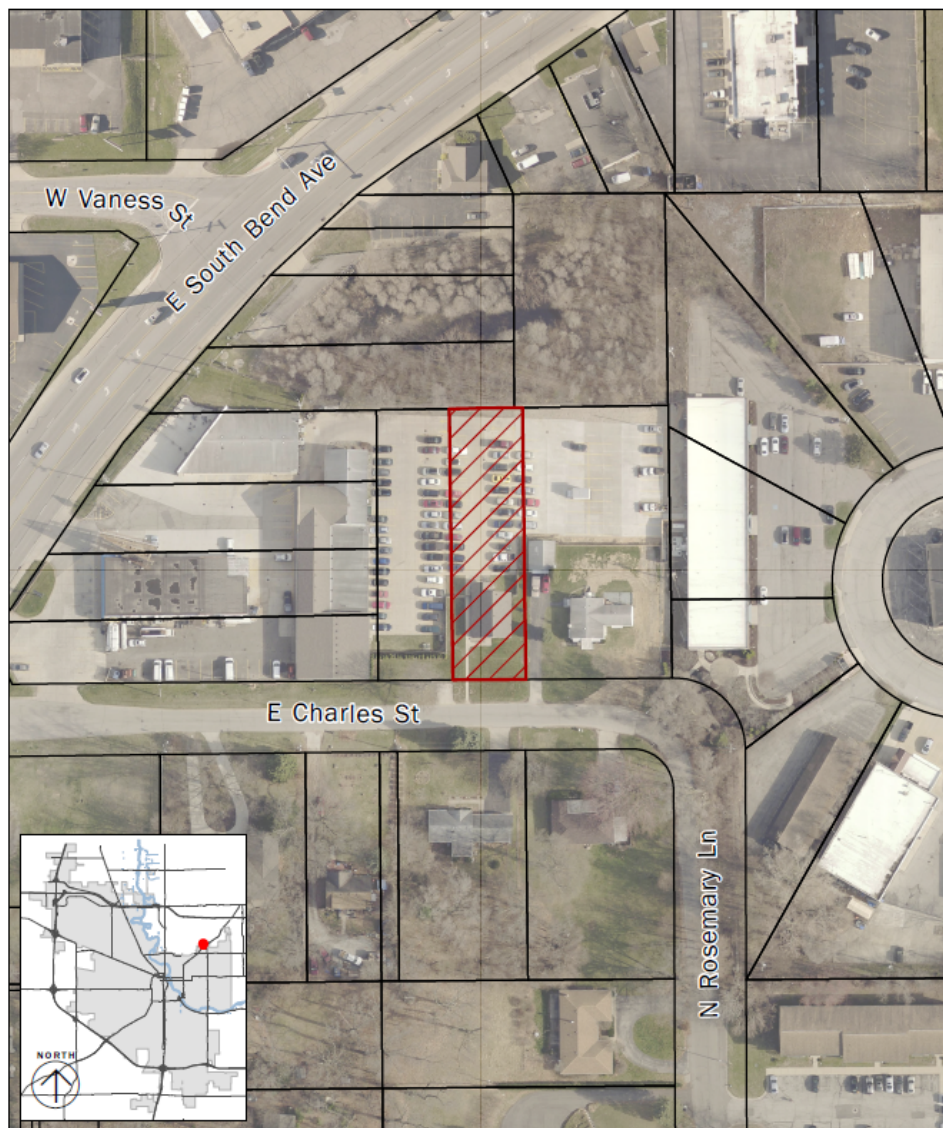
Allow for a structure to be used as a one unit dwelling.

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**Requested Action**

- Variance(s): 1) To allow a 1 unit dwelling directly along the street frontage  
2) To allow a Detached House Building Type in the NC district  
3) From the 12' maximum setback to 36.24'

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**Site Location**

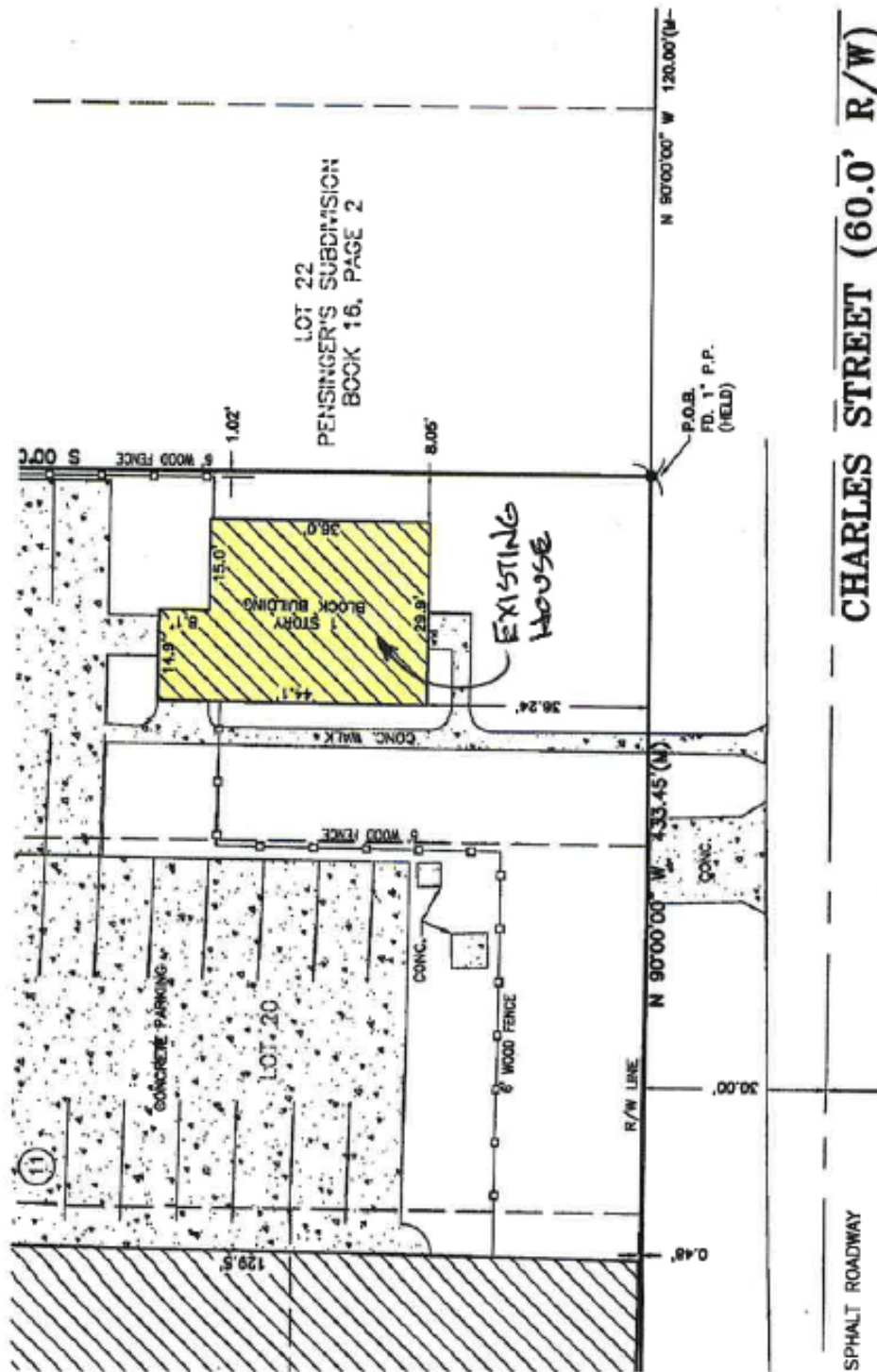
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**Staff Recommendation**

The staff recommends the Board approve the variances as presented.

Proposed Site Plan

1939 Charles Street, South Bend, Indiana – Variance Request Site Sketch



SITE SKETCH  
1" = 30'

Property Owner:  
FTC Properties, LLC  
1820 South Bend Avenue, Suite 200  
South Bend, Indiana 46637

Wissco  
1821007102

### 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 structure was initially built as a single-family home. Due to the low intensity of the use and the fact that it is an existing structure, use of the property as a one-unit dwelling should not be injurious to the public health or 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 majority of the property surrounding this site is owned by the petitioner. The adjacent property to the east and the properties across Charles Street are currently being used as a one-unit dwelling. The proposed use should not impact the use or value of the adjacent 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 not allow the property owner to use the building as it was initially constructed, nor allow the property to be used in a similar manner of the adjacent properties. While the house technically faces a street, this lot is only a portion of a larger development with non-residential uses along the primary frontage.

**(4) The variance granted is the minimum necessary**

The variance request is the minimum available to allow the site to be used as a one-unit dwelling.

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

While the residential use of the property was temporarily abandoned by the current owner, the structure remained. Allowing for the property to be used as originally built will allow for better utilization of the site and help maintain the character of the area.

### Analysis & Recommendation

**Analysis:** Strict application of the ordinance would not allow the property owner to use the building as it was initially constructed, nor allow the property to be used in a similar manner of the adjacent properties. Allowing for the property to be used as originally built will allow for better utilization of the site and help maintain the character of the area.

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



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**Property Information**

Location: 4921 BLACKFORD DR  
Owner: STEPHEN GREGORY AND COURTNEY MARIE ROACH

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**Project Summary**

To install a 6' high wood privacy fence around the backyard with 8' along the rear lot line

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**Requested Action**

Variance(s): 1) From the maximum 6' fence height to 8' along the rear property line

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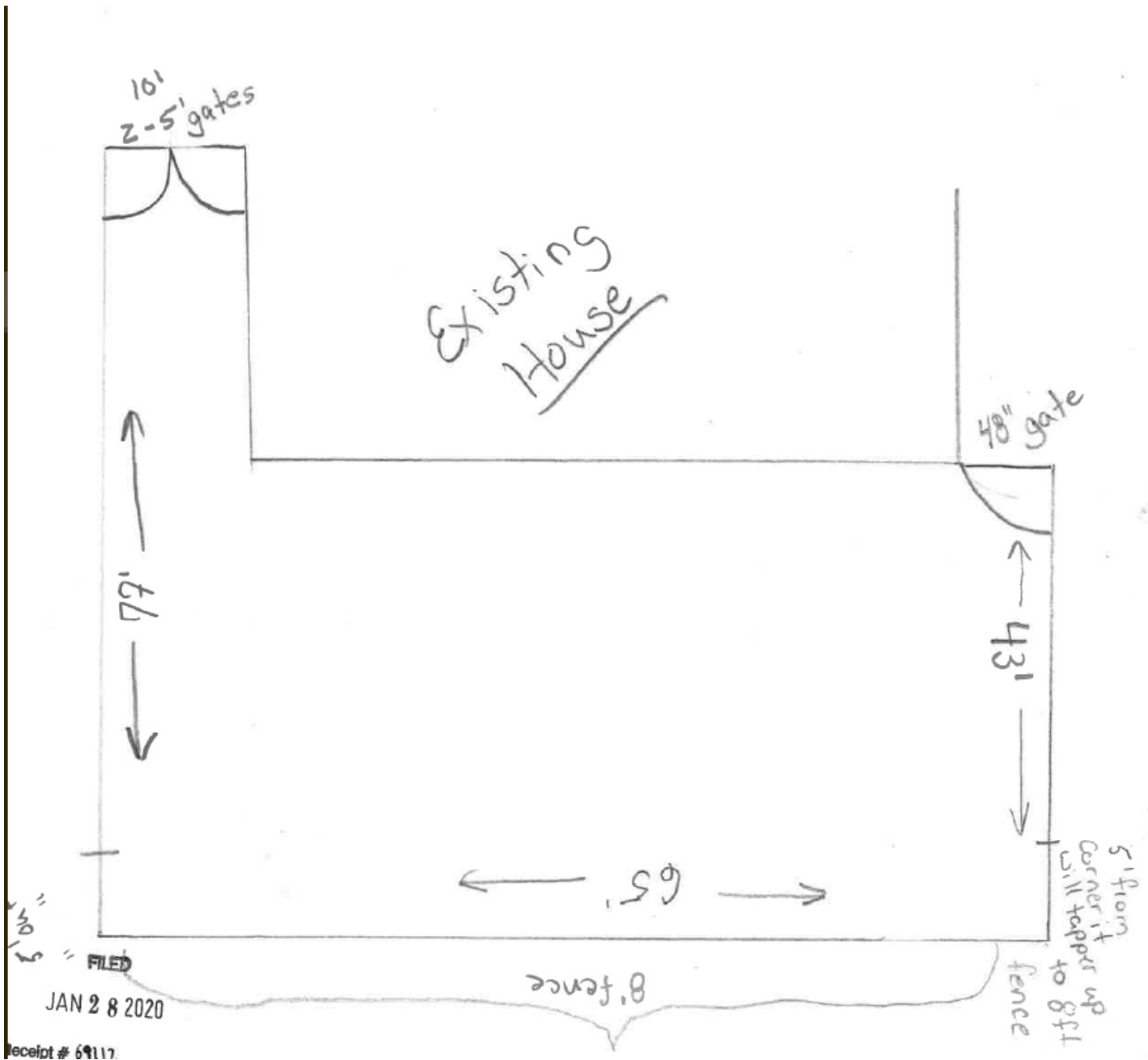
**Site Location**

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**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**

Because the fence will only be located along a rear property line, the addition of a taller fence should not be injurious to public health, safety, or 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**

Due to the unique circumstances of the property and the fact that the fence will only be along the rear property line, the 8' fence should not affect adjacent properties.

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

Because of the grade change along the rear property, strict application would result in a fence this is effectively much shorter.

**(4) The variance granted is the minimum necessary**

The variance requested is for 2' more height on the fence, the minimum necessary to provide the privacy that is sought. Also, by only increasing the height along the rear property, the minimum variance is being requested.

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

The unique topography of the site was not caused by the current or any former owners.

### Analysis & Recommendation

**Analysis:** Due to the unique circumstances of the property, the 8' fence is an appropriate response to the applicant wishing for privacy in their back yard while not negatively impacting the neighborhood.

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



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**Property Information**

Location: 1116 MAIN ST and 122 GARST ST  
Owner: BHOLA SINGH

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**Project Summary**

To allow a 6 ft. chain link fence for the sake of security and matching neighboring properties

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**Requested Action**

Variance(s): 1) From the 4' maximum fence height in an established front or corner yard to 6'

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**Site Location**

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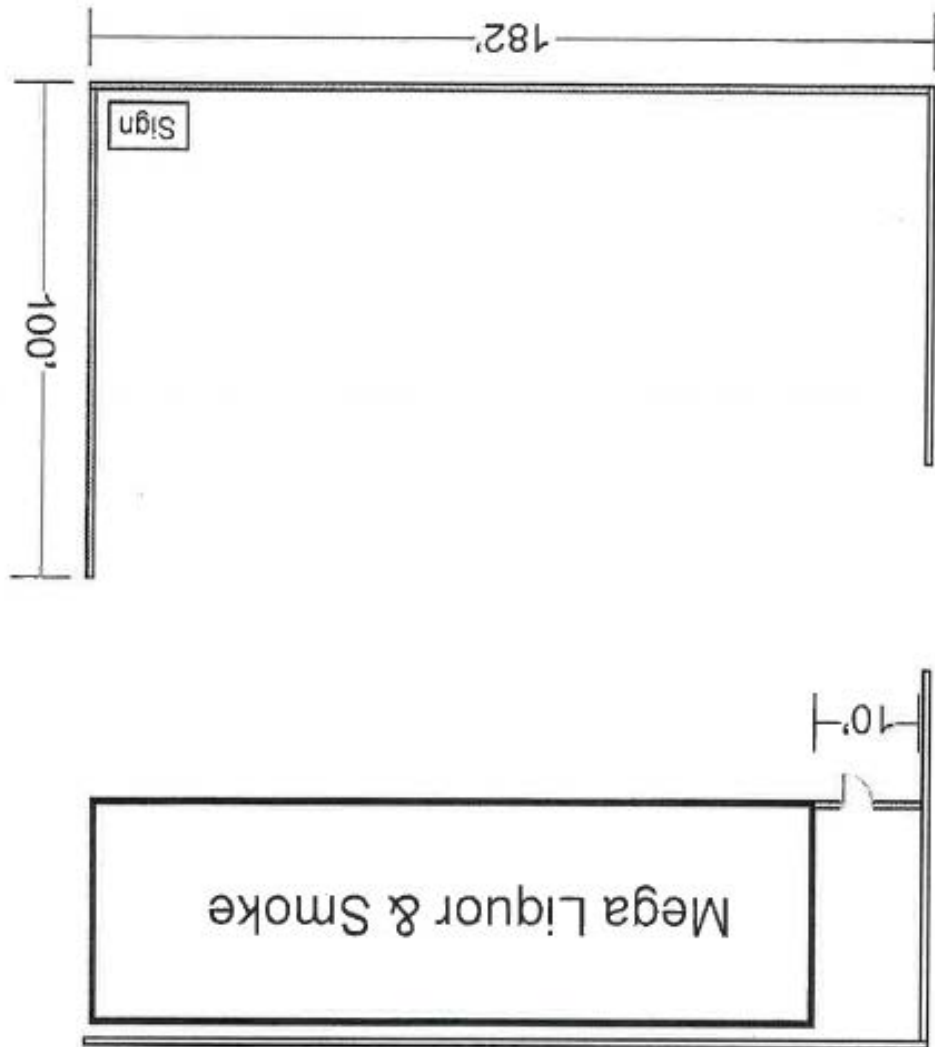
**Staff Recommendation**

The staff recommends the Board deny the variance.

Proposed Site Plan

FILED

1116 S Main St  
South Bend, IN 46601



— Existing fence  
— New fence

### 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 the fence is more than 70% open, approval of this should not be injurious to the public health, safety or 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**

Fences above the 4' maximum height in the established front yard create a character and atmosphere that is not consistent with the intent of the commercial district. If this variance is granted at this location, it will establish a precedent of larger fences, weakening the effectiveness of the ordinance, and ultimately impacting surrounding properties in an adverse manner.

**(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. Nothing on the property necessitates an increased fence height.

**(4) The variance granted is the minimum necessary**

Because there is no hardship on the property and a 4' fence, as allowed by the ordinance, would achieve the same purpose as stated in the petitioner's request. Granting a variance to allow a 6' fence would not be the minimum request necessary for the property.

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

The current owner installed the fence without a building permit at an height that is not allowed per the ordinance. Due to this, approving this variance would correct a hardship that was caused by the current owner of the property.

### Analysis & Recommendation

**Analysis:** There are no practical difficulties or unique characteristics that support the variance requested. The petition does not meet the required criteria.

**Staff Recommendation:** The staff recommends the Board deny the variance.



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**Property Information**

Location: 1000 block of Howard & Corby, 1100 block of South Bend Ave., and 900 block of Frances  
Owner: UNIVERSITY OF NOTRE DAME DU LAC, PHILIP SLATT, AND FIVE CORNERS LLC

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**Project Summary**

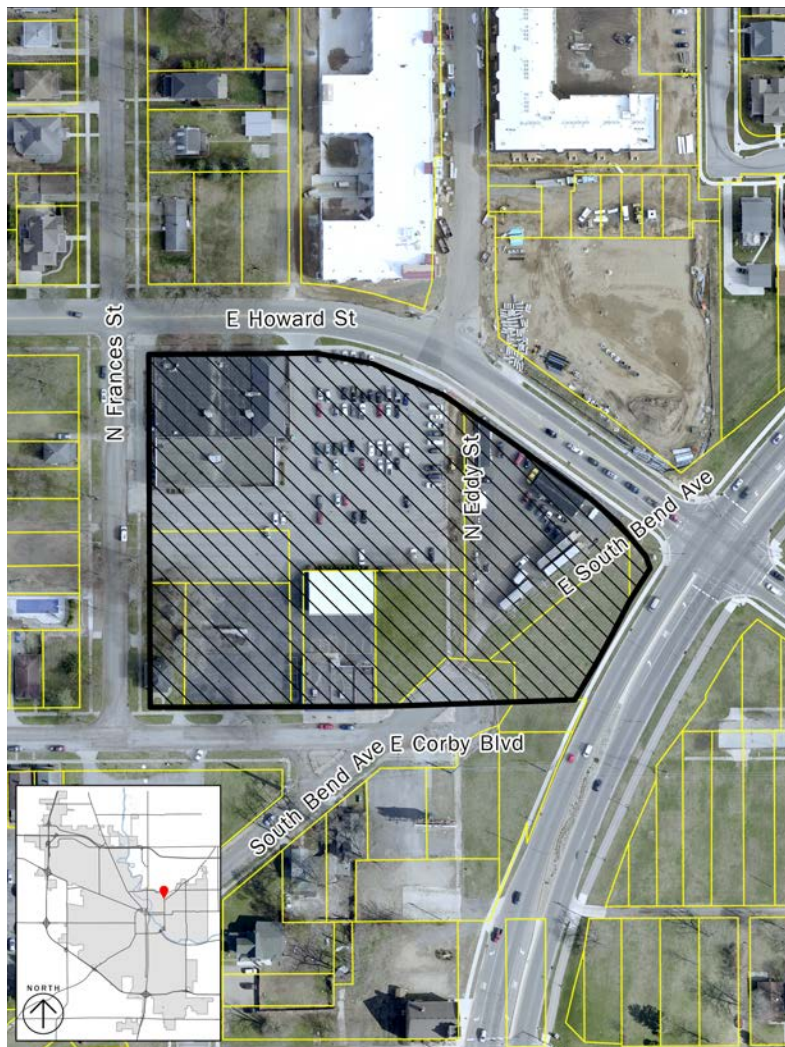
The petitioners desire to create a Mixed Use Development, which is Phase III of the Eddy Commons Campus area and will include multiple retail spaces.

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**Requested Action**

Variance(s): 1) From the requirement that the primary facade shall be oriented to a front lot line or open space; 2) From the 60% minimum transparency for ground floor front facade to 30% on Howard and from the 20% minimum transparency for a corner facade to 0% on State Road 23; 3) From the minimum parking setback of 5' behind the front or corner facade to allow parking at the building line

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**Site Location**

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**Staff Recommendation**

The staff recommends the Board approve the variances as presented, subject to the following:  
1) construction of the loading area in a manner approved by the Zoning Administrator; 2) a minimum 60% glazing on Howard and 20% glazing on SR-23 between the heights of 2' and 8'.

# Proposed Site Plan



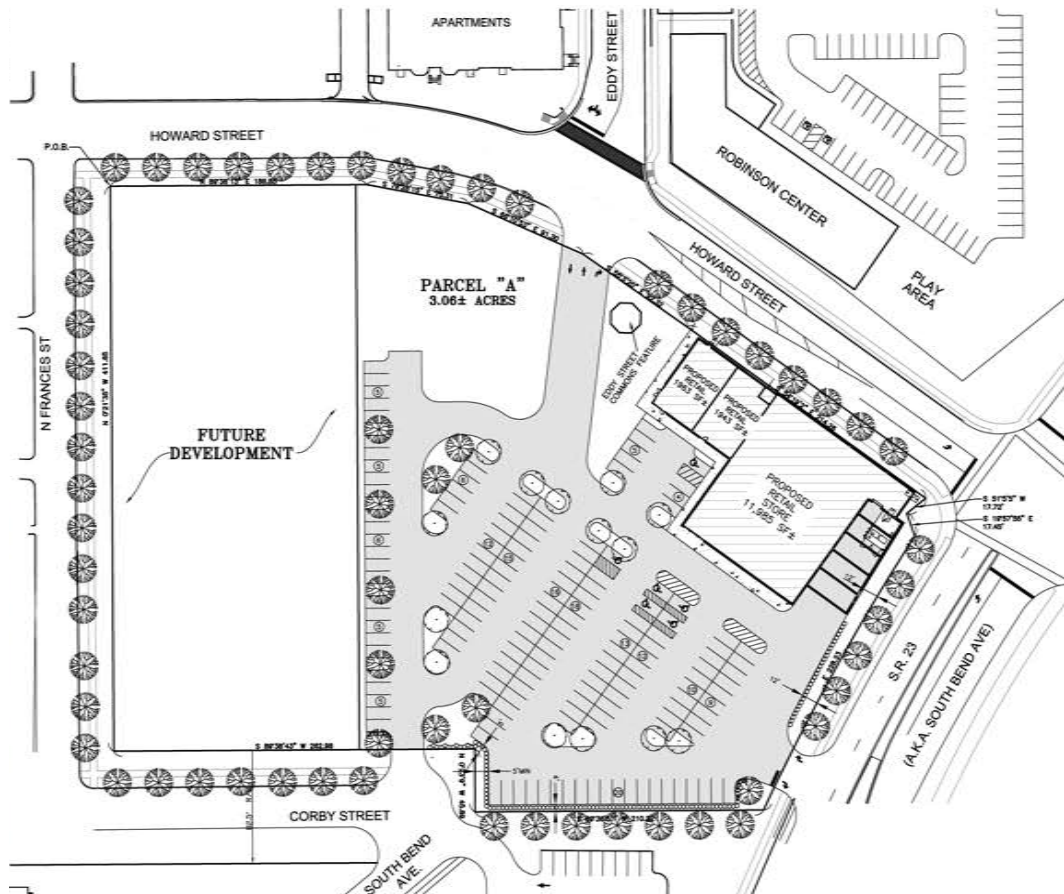
**3 EAST ELEVATION** Loading/Service Area  
 1/16" = 1'-0"  
 Total area of calculation zone (Z'-8'): 716sf  
 Total area of vision glass (Z'-8'): 0sf | 0%  
 Total area of nonvision (spandrel) glass (Z'-8'): 104sf  
 Total area of vision and nonvision glass (Z'-8'): 104sf | 15%



**2 NORTH ELEVATION**  
 1/16" = 1'-0"  
 Total area of calculation zone (Z'-8'): 1,166sf  
 Total area of vision glass (Z'-8'): 355sf | 30%  
 Total area of nonvision (spandrel) glass (Z'-8'): 215sf  
 Total area of vision and nonvision glass (Z'-8'): 570sf | 49%



**1 SOUTH ELEVATION**  
 1/16" = 1'-0"  
 Total area of calculation zone (Z'-8'): 1,166sf  
 Total area of vision glass (Z'-8'): 487sf | 42%  
 Total area of nonvision (spandrel) glass (Z'-8'): 0sf  
 Total area of vision and nonvision glass (Z'-8'): 487sf | 42%



### 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 site is located along a major corridor. The variances requested should not be injurious to the health, safety, or general welfare of the public.

**(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 development and associated variances are consistent with the mixed-use land uses and development standards of the surrounding area. 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**

Because the site has multiple frontages with limited access and major utilities dividing the development site, strict application of the regulations for the loading area and trash enclosure would create practical difficulties in locating these services in a manner that would not conflict with pedestrian and vehicular safety. The services to the building also limit the orientation and transparency for the facades along the street frontages.

**(4) The variance granted is the minimum necessary**

The proposed development incorporates building design and facade enhancements designed to minimize the variances requested and the impact on the surrounding area.

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

The hardships were not created by the property owner. The relocation of State Road 23 by INDOT has resulted in a development site that is constrained by the location of utilities, access to the site, and irregular frontages.

### Analysis & Recommendation

**Analysis:** Approval of the variances will allow for a mixed-use development consistent with the character established by Eddy Street Commons.

**Staff Recommendation:** The staff recommends the Board approve the variances as presented, subject to the following: 1) construction of the loading area in a manner approved by the Zoning Administrator; 2) a minimum 60% glazing on Howard and 20% glazing on SR-23 between the heights of 2' and 8'.



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**Property Information**

Location: 1237 NORTHSIDE BLVD  
Owner: MULBERRY HILL LLC

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**Project Summary**

To establish a pet care facility in the north end of the building plus an outdoor area. Pets, mainly dogs, will spend the majority of the day within the 15,000 square foot building. They will use the outdoor area periodically, under supervision, to use the bathroom and get fresh air.

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**Requested Action**

Variance(s): 1) To allow outdoor animal care activity in an established front yard; 2) From the required Type 3 buffer to a 6' screening fence; 3) From the maximum 3' high fence to 6' in an established front yard

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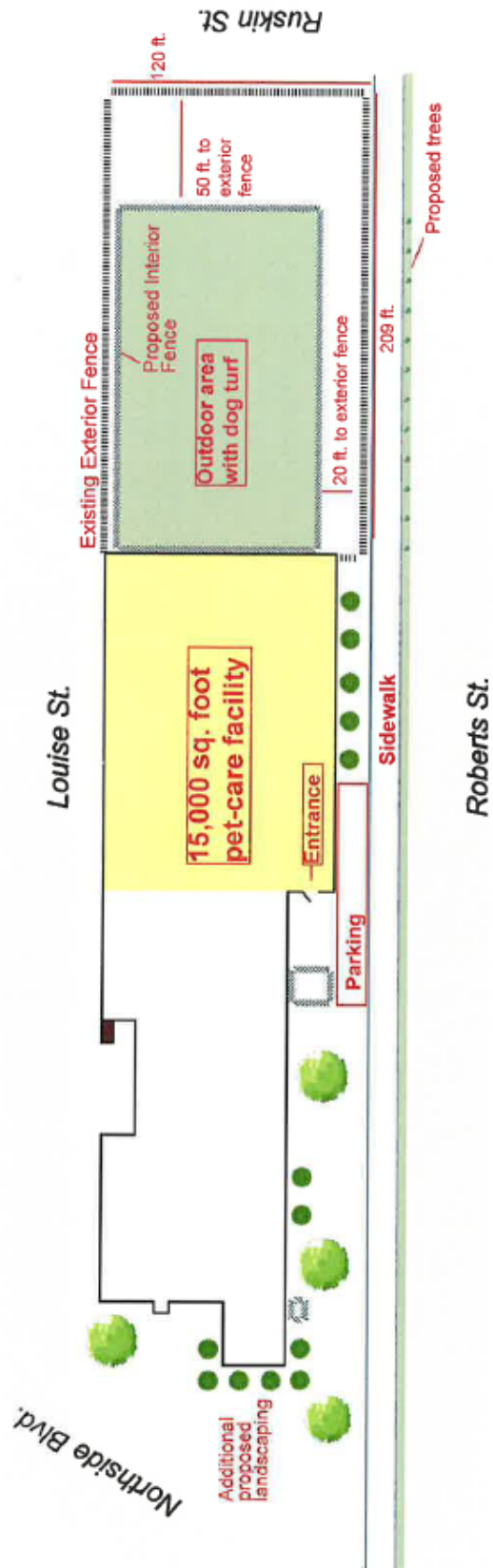
**Site Location**

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**Staff Recommendation**

The staff recommends the Board approve the variances, subject to the following: 1) the outdoor activity being limited to an area with a 50' minimum setback from Roberts Street and Ruskin St.; and 2) removal of the barbed wire from the existing fence.

Proposed Site Plan



FILED

FEB 03 2020

Receipt # 069121

### 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 operational controls, the petition 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**

With proper screening and setbacks established, there should not be adverse affects to the 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 property being a multi-frontage lot, the specific use desired for this property results in practical difficulties.

**(4) The variance granted is the minimum necessary**

The variance requested provides a large area necessary for the well-being of the animals while impacting the surrounding properties as minimally as possible.

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

While it is a change in use, the request is not to correct a hardship. It is to allow for the adaptive reuse of the building.

### Analysis & Recommendation

**Analysis:** Due to the unique circumstances of the site, the variances requested allow the site to be put back in productive use while having minimal impacts on the surrounding properties.

**Staff Recommendation:** The staff recommends the Board approve the variances, subject to the following: 1) the outdoor activity being limited to an area with a 50' minimum setback from Roberts Street and Ruskin St.; and 2) removal of the barbed wire from the existing fence.