

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, July 6, 2020 - 4:00 p.m.
County-City Building
Fourth-Floor Council Chambers

PUBLIC HEARING:

1. **Location:** 211 EDDY ST BZA#0015-20
Owner: EDDY PROPERTY DEVELOPMENT LLC (The South Bend Clinic)
Requested Action: Variance(s): 1) From the maximum 1 sign per building with a maximum of 40 sq.ft. to 3 signs on the north elevation totaling 512 sq.ft., 1 sign on the east totaling 73 sq.ft.; 1 sign on the south elevation totaling 64 sq.ft., and 1 sign on the east elevation totaling 63 sq.ft.
Zoning: NC Neighborhood Center
2. **Location:** 1223 THOMAS ST and 1227 THOMAS ST BZA#0009-20
Owner: MARLENE STEVENS
Requested Action: Variance(s): 1) To allow an accessory use without a primary structure
Zoning: U1 Urban Neighborhood 1
3. **Location:** 125 S. ESTHER BZA#0017-20
Owner: JUSTIN K HANIG AND ERIN LINDER
Requested Action: Variance(s): 1) From the 3' maximum fence height in an established corner yard to a 6' on the west property line
Zoning: S1 Suburban Neighborhood 1
4. **Location:** 743 Portage Ave BZA#0018-20
Owner: CARLOS A CENTELLAS CAMACHO AND ALLISON MAE BEYER
Requested Action: Variance(s): 1) From the 3' maximum fence height in an established front and corner yard to a 4'
Zoning: U1 Urban Neighborhood 1
5. **Location:** 821 CUSHING AND 901 PORTAGE BZA#0019-20
Owner: NEAR NORTHWEST NEIGHBORHOOD INC
Requested Action: Variance(s): 1) From the 48' maximum width of an apartment house to 54'
Zoning: U1 Urban Neighborhood 1
6. **Location:** 1017 DEMAUDE AVE BZA#0020-20
Owner: NEAR NORTHWEST NEIGHBORHOOD, INC
Requested Action: Special Use: a 2 unit dwelling in a U1 Urban Neighborhood 1 District
Zoning: U1 Urban Neighborhood 1

7. **Location:** 802 S. LAFAYETTE BLVD

BZA#0021-20

Owner: DEPARTMENT OF REDEVELOPMENT CITY OF SOUTH BEND

Requested Action: Variance(s): 1) From the required Type 3 Landscape Buffer to none on the north and east

Zoning: I Industrial

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact
2. Minutes
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

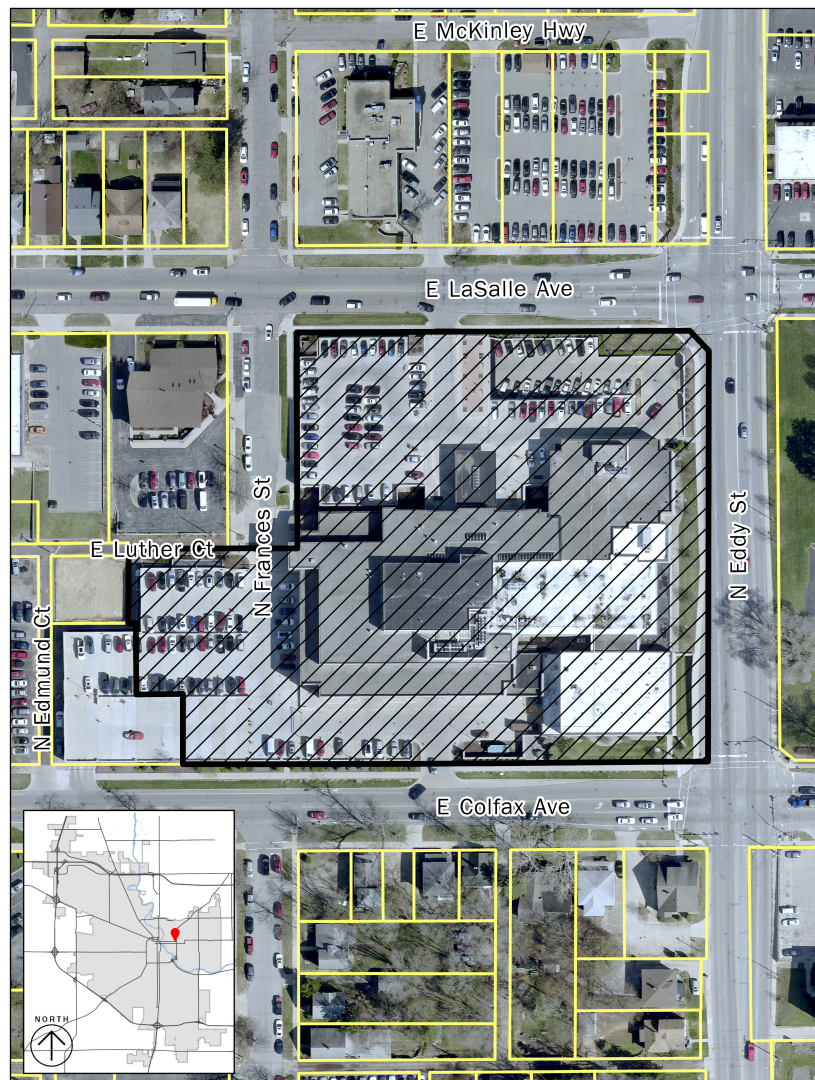
Location: 211 EDDY ST
Owner: EDDY PROPERTY DEVELOPMENT LLC (The South Bend Clinic)

Project Summary

To allow new signs for the South Bend Clinic facility.

Requested Action

Variance(s): 1) From the maximum 1 sign per building with a maximum of 40 sq.ft. to 3 signs on the north elevation totaling 512 sq.ft., 1 sign on the east totaling 73 sq.ft.; 1 sign on the south elevation totaling 64 sq.ft., and 1 sign on the east elevation totaling 63 sq.ft.

Site Location

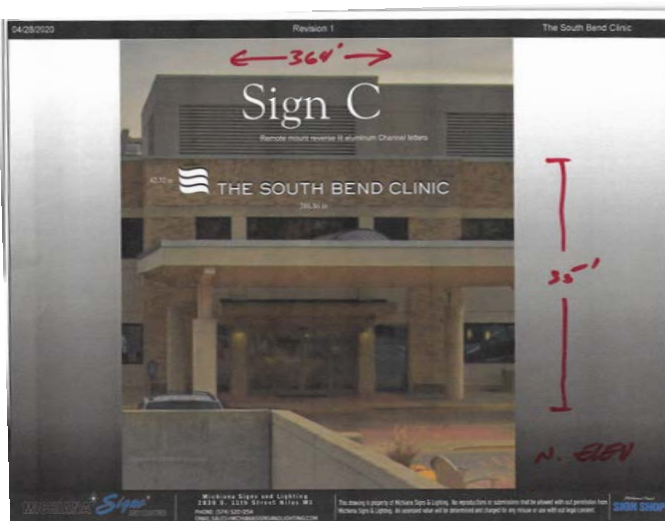
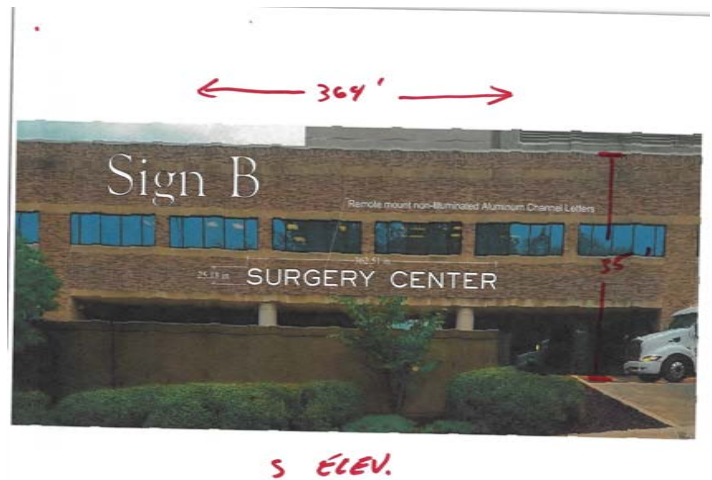
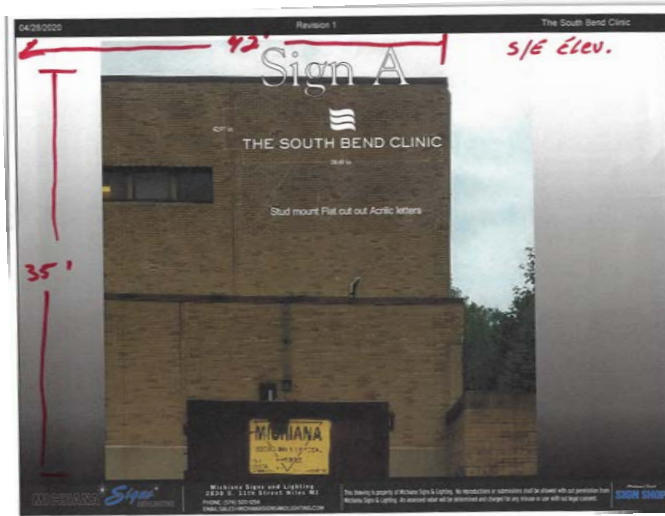
Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances, subject to a maximum of 2 signs totaling 380 sq.ft. on the northern elevation.

Proposed Site Plan



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 signs will not be injurious to the public health and safety of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

Because of the relative size of the signs in relation to the size of the building, the use and value of adjacent properties should not be 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 Northeast Neighborhood Zoning Overlay would only allow a small 40 square foot sign for this entire building. The size of the building and the need to identify the additional tenant (Riley Children's Hospital) create a practical difficulty in complying with the strict terms of the Ordinance.

(4) The variance granted is the minimum necessary

With the exception of Sign F (the electronic message center) on the north elevation, the proposed signs are the minimum necessary to update the existing signs and appropriately identify the addition of Riley Children's Hospital to the facility.

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

The Northeast Neighborhood Zoning Overlay was not in place at the time the building was constructed and did not contemplate multiple tenants within one building or a building of this size and nature.

Analysis & Recommendation

Analysis: Allowing The South Bend Clinic to replace their existing signs and add a sign identifying Riley Children's Hospital will ensure proper identification of the facility while meeting the intent of the Zoning Ordinance.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances, subject to a maximum of 2 signs totaling 380 sq.ft. on the northern elevation.

Property Information

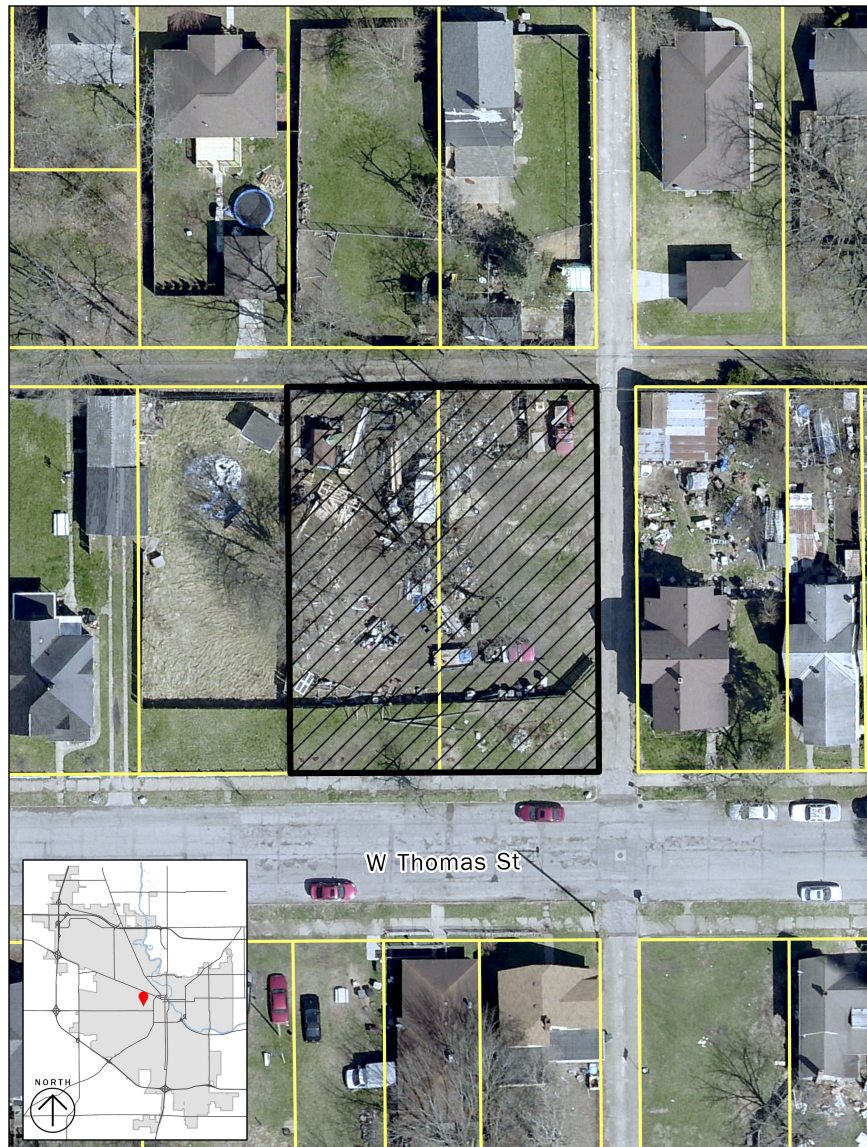
Location: 1223 THOMAS ST and 1227 THOMAS ST
Owner: MARLENE STEVENS

Project Summary

To allow a privacy fence on a property without a primary structure.

Requested Action

Variance(s): 1) To allow an accessory use without a primary structure

Site Location

Staff Recommendation

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

Approval of the variances could be injurious to the public health, safety, morals, and general welfare of the community. The addition of the fence directly perpendicular to the alley could lead to visual issues entering or exiting they alley and has been put in place to screen a use not allowed in this district.

(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 would be affected in an adverse manner due to the fence being placed to screen junk and debris that violates the property maintenance ordinance of the City. Allowing a privacy fence to secure a lot that does not contain a primary structure promotes uses of the property in a manner not consistent with the zoning ordinance and other City ordinances.

(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 Zoning Ordinance would not result in practical difficulties in the use of the property, the property could still be used without a privacy fence. The petitioner presented no justification for the requested variance.

(4) The variance granted is the minimum necessary

The petitioner is not asking for the minimum necessary, the request is for a 6' privacy fence on a lot without any type of other structure.

(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 that supports the granting of a variance.

Analysis & Recommendation

Analysis: Allowing a privacy fence on a property that does not contain a primary structure encourages use of the property in a manner that violates the Zoning Ordinance and other ordinances within the City.

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

Property Information

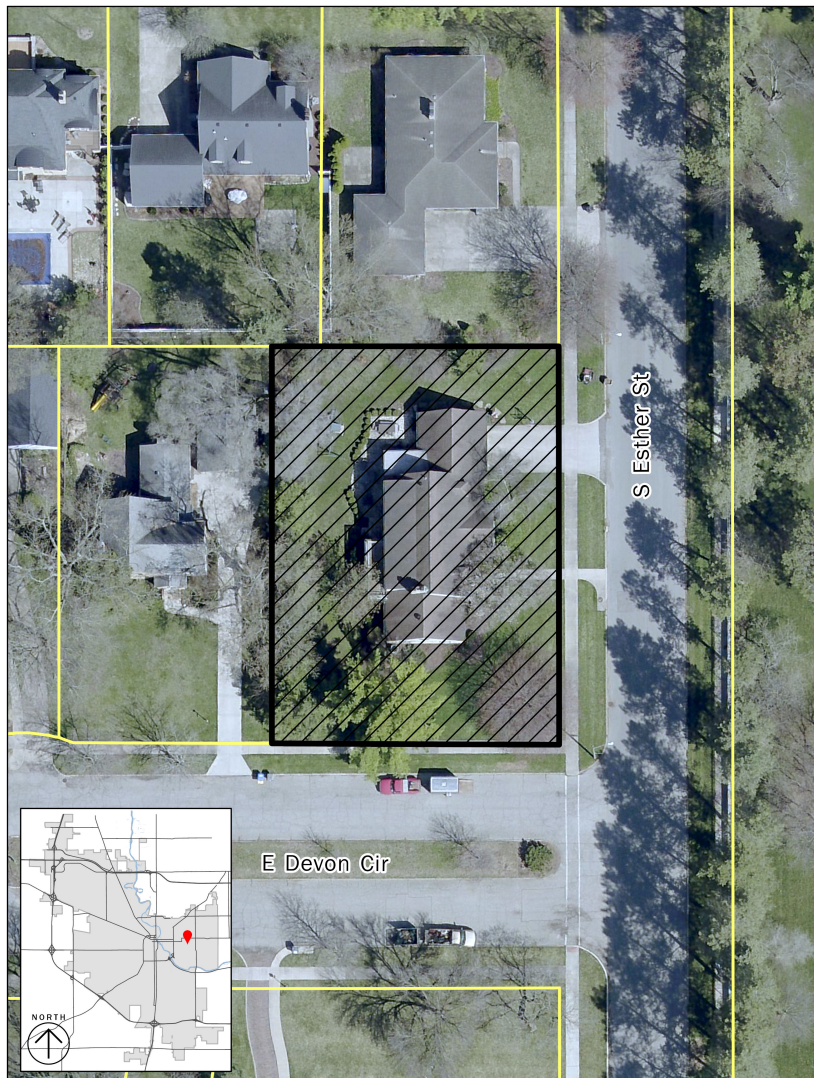
Location: 125 S. ESTHER
Owner: JUSTIN K HANIG AND ERIN LINDER

Project Summary

6' wood privacy fence along north and west sides of property with 4' (70% open) aluminum fence on east and south sides of property.

Requested Action

Variance(s): 1) From the 3' maximum fence height in an established corner yard to a 6' on the west property line

Site Location

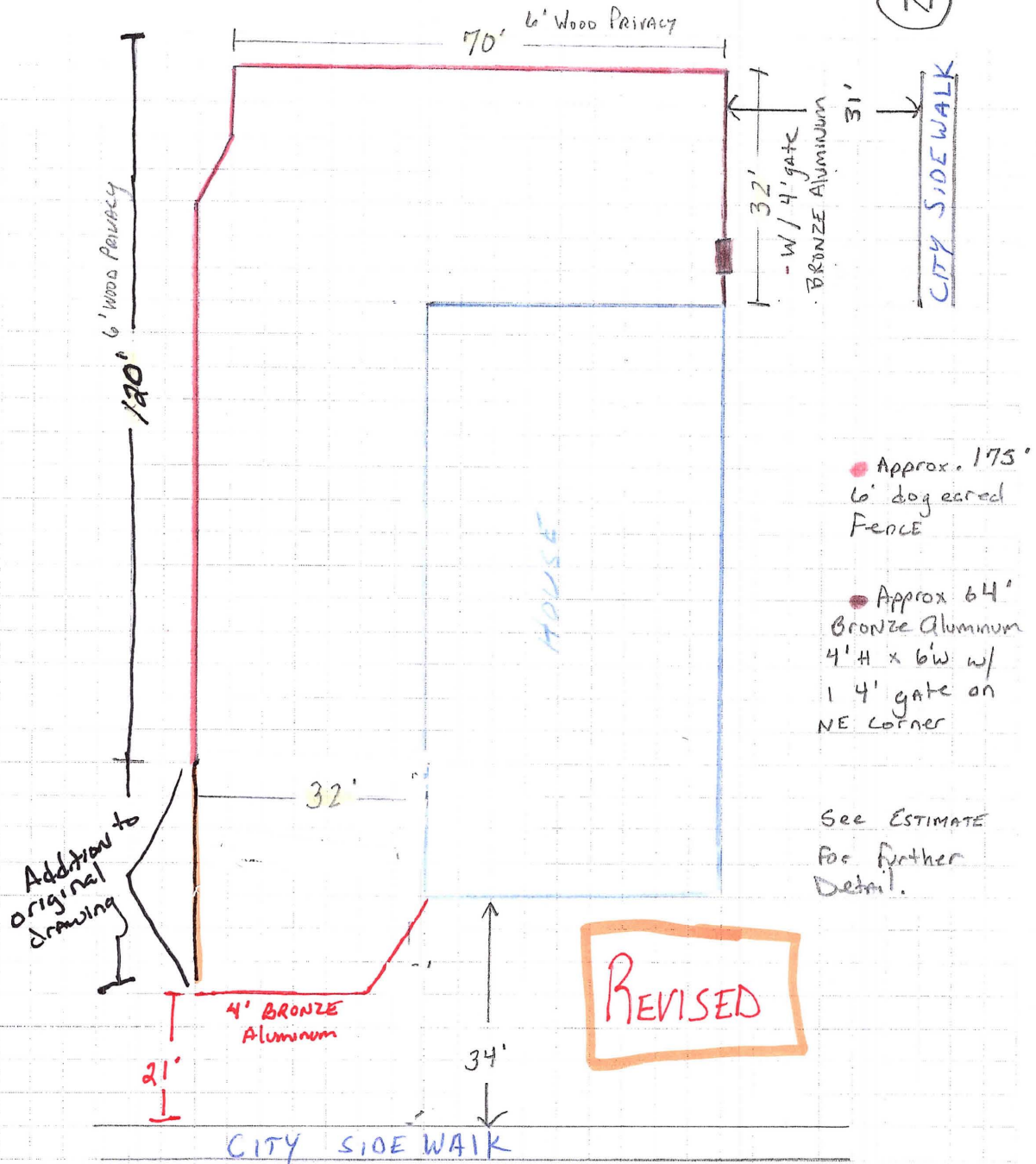
Staff Recommendation

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

Proposed Site Plan

**3Son's
Landscaping**

55292 Mayflower Road
South Bend, IN 46628
O: (574) 654-0003 C: (574) 876-7186



Threesonslandscaping@outlook.com • 3sonslandscaping.com

Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community

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

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

The proposed fence is out of character with the area, which could have an impact on the value of surrounding properties. Houses in this neighborhood are setback a considerable distance with the expectation that fences will not be placed past the houses footprint. No other houses in the immediate vicinity have fences in front of the house footprint. The property to the west of the subject property will be impacted in an adverse way if the variance is granted by placing a solid structure along their property line.

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

The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property. The property can still be secured with a shorter fence that does not prohibit security or privacy of the property. Aesthetic preference is not a practical difficulty.

(4) The variance granted is the minimum necessary

The variance asked for is not the minimum necessary. As part of this project, the petitioner is using a code compliant fence along the corner lot line, which could be used in this portion of the property as well.

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

There is not hardship on the property. The vegetation located on the west end of the property would have been planted by the former or current owner of the property.

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 ordinances. A 4' aluminum 70% opening fence already installed on the east and the south could be extended the 13' requested to satisfy the desired goals of the petitioner.

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: 743 Portage Ave

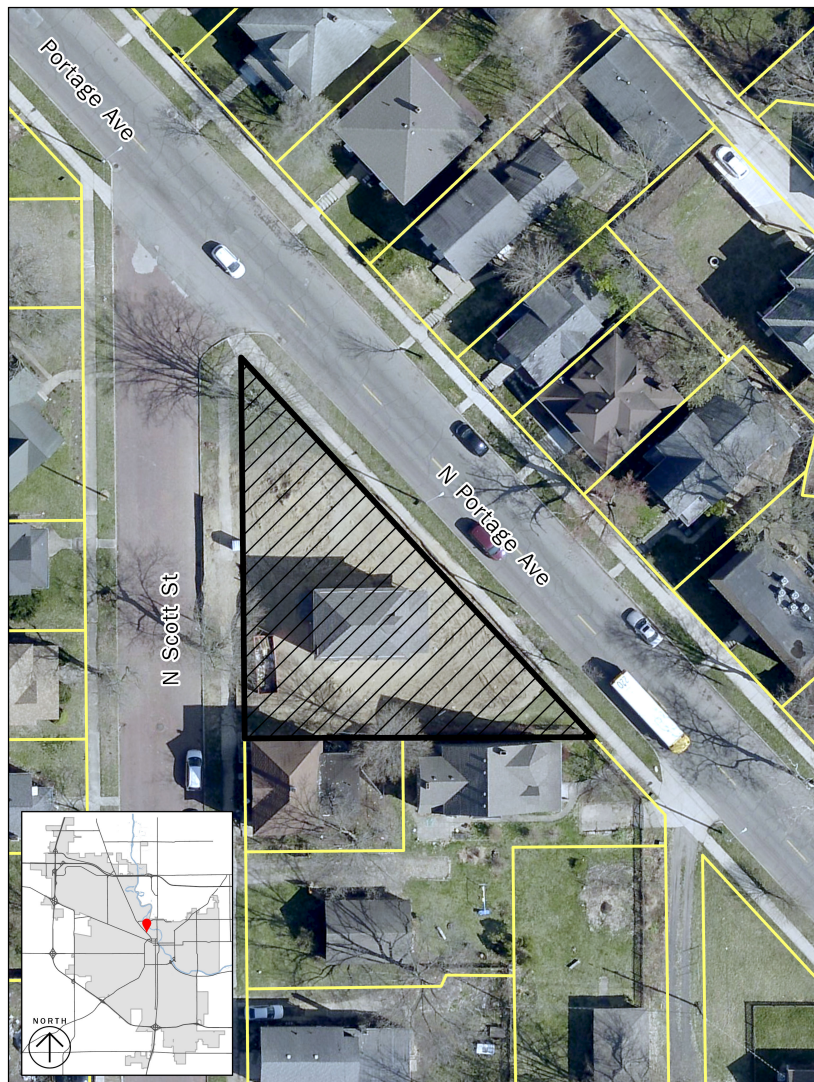
Owner: CARLOS A CENTELLAS CAMACHO AND ALLISON MAE BEYER

Project Summary

Installing a new fence. It will go around the entire perimeter of the large property and extend out from the sides of the house to the neighbor's fence on one side and to the perimeter fence on the other.

Requested Action

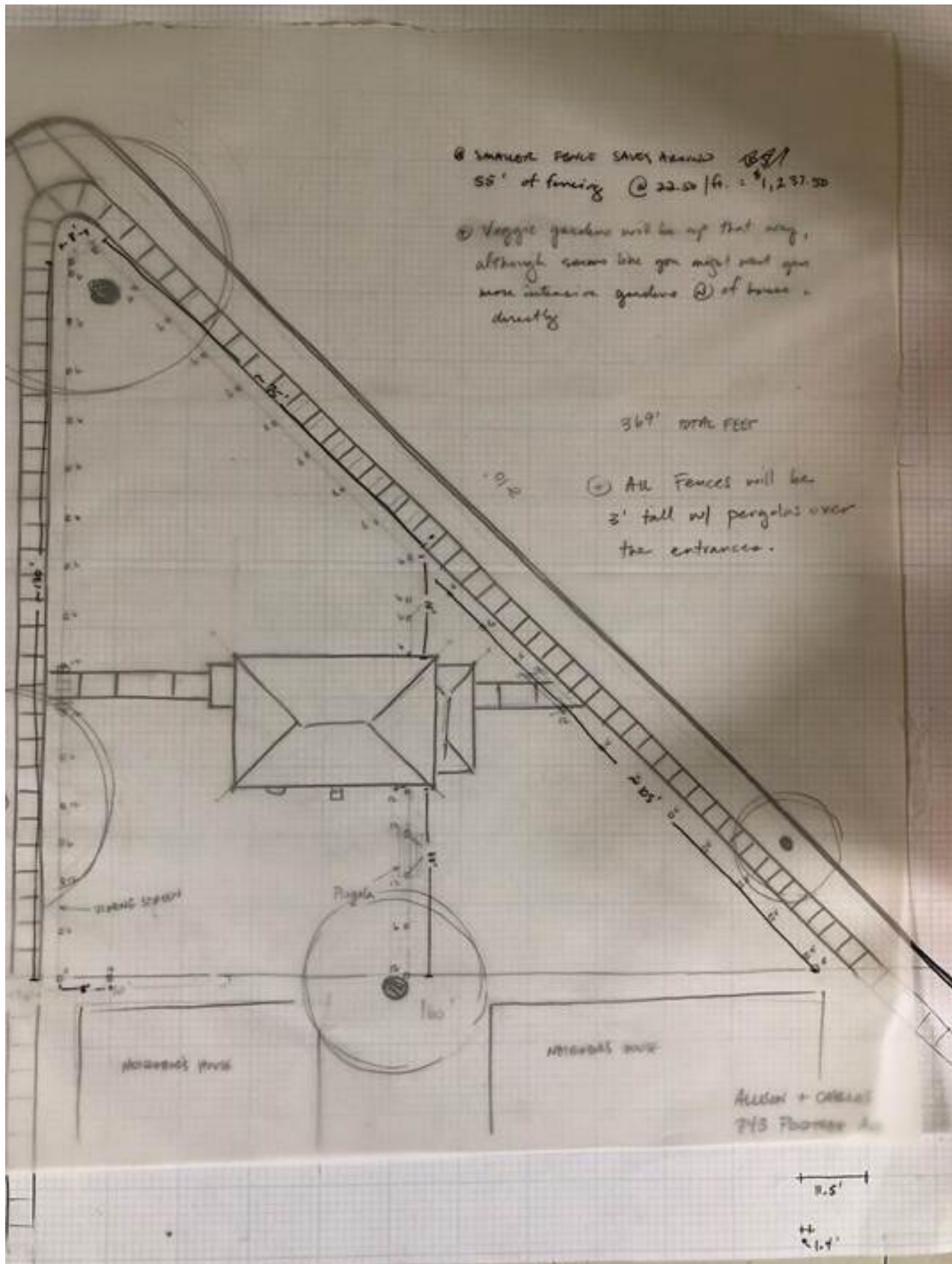
Variance(s): 1) From the 3' maximum fence height in an established front and corner yard to a 4'

Site Location

Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as requested, subject to Engineering approval of the clear sight area.

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

With proper sight distancing at the intersection of Portage and Scott Street, the proposed fence should not be injurious to the public health, safety, morals and general welfare of the community. The added 1' of height will help secure the property safely which should increase the safety and public health of both the residents and community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

The proposed fence is consistent with the character of the area and should not adversely affect the use or value of 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 triangular shape of the property, the newly constructed house had to be sited a significant distance from the intersection of the Portage and Scott Streets. Strict application would allow a very small area that can be secured with a taller fence.

(4) The variance granted is the minimum necessary

The variance requested is the minimum necessary to provide the security and safety the petitioners seek while maintaining the character of the area. While the proposed fence does not meet the 70% open requirement for a 4' fence, it is still mostly open with a still that is greater than 50% open.

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

The triangular shape of the property was established by the direction of the public right-of-ways. This was not caused by any former or current owner.

Analysis & Recommendation

Analysis: The triangular shape of the property creates a practical difficult for the property. The requested variance provides security to the property in a reasonable manner consistent with the intent of the ordinance.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as requested, subject to Engineering approval of the clear sight area.

Property Information

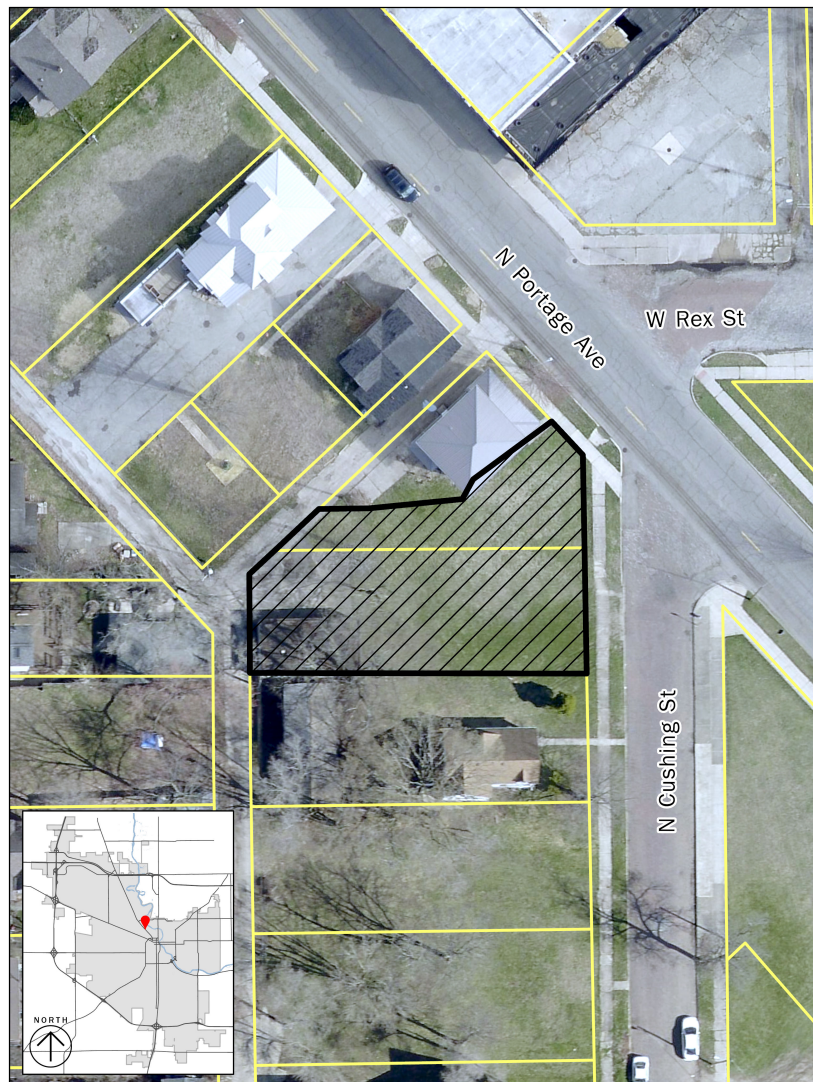
Location: 821 CUSHING and 901 PORTAGE AVE
Owner: NEAR NORTHWEST NEIGHBORHOOD, INC

Project Summary

Proposed new construction of a four-unit rental property, as part of neighborhood development, to remain owned and managed by the NNN. The two properties, prior to demolition, contained two single family homes.

Requested Action

Variance(s): 1) From the 48' maximum width of an apartment house to 54'

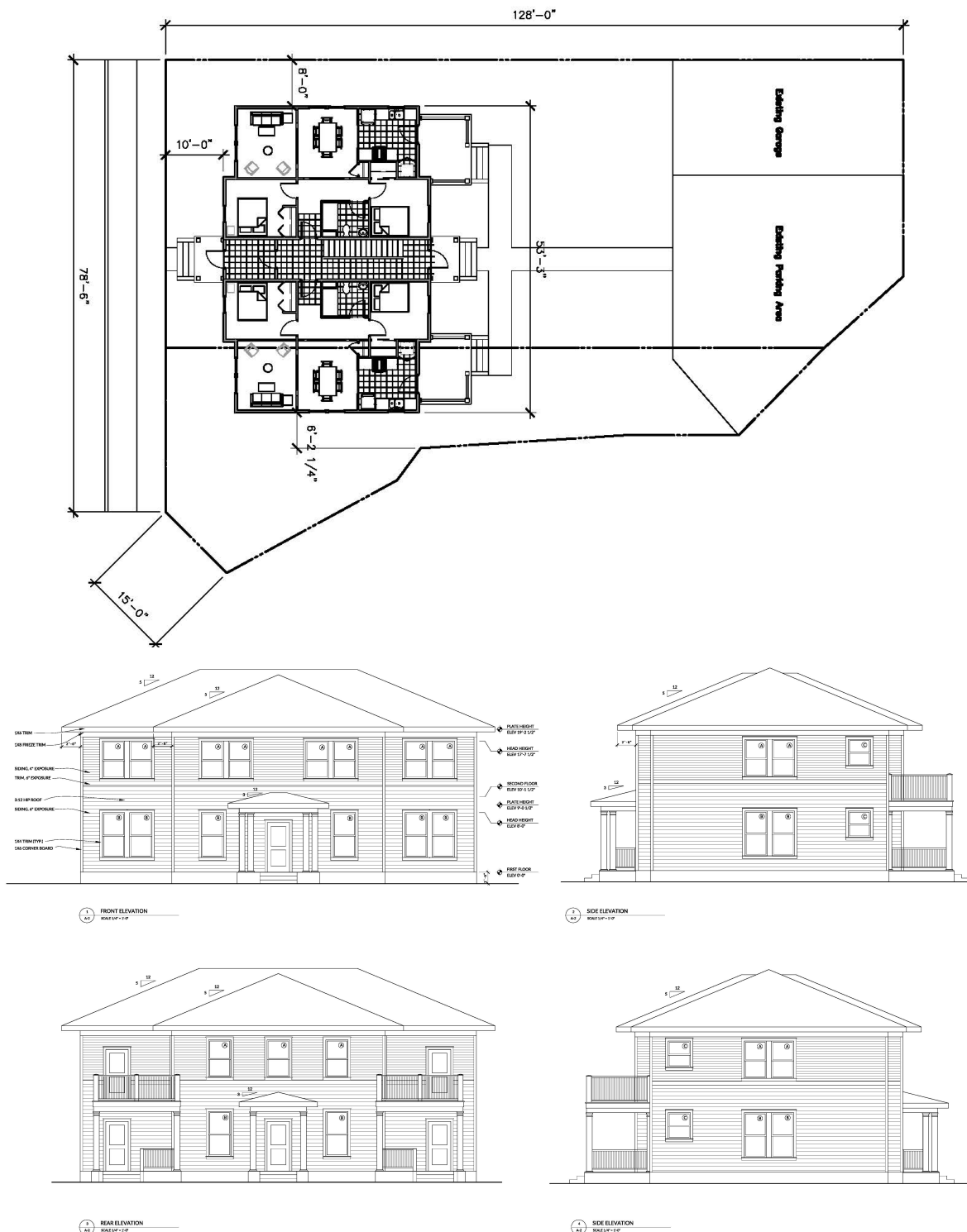
Site Location

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

901 Portage and 821 Cushing



<small>NEAR NORTHWEST NEIGHBORHOOD, INC. IS A 501(C)(3) NON-PROFIT ORGANIZATION. THE ORGANIZATION'S PURPOSE IS TO PROMOTE THE ECONOMIC DEVELOPMENT OF THE NEAR NORTHWEST NEIGHBORHOOD IN SOUTH BEND, INDIANA. THE ORGANIZATION'S ACTIVITIES ARE LIMITED TO THE ACQUISITION, DEVELOPMENT, AND OPERATION OF REAL ESTATE IN THE NEAR NORTHWEST NEIGHBORHOOD.</small>	
DESIGN DEVELOPMENT SET	
Near Northwest Neighborhood, Inc. 1007 Portage Ave. South Bend, IN 46616 574.223.5942	
Four Family Construction 901 Cushing Avenue South Bend, IN 46616	
DATE: 5/14/2020	
SHEET NO. A-3	

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

A variance to increase the maximum width of an apartment house should have no impact on the public health, safety, morals and general welfare of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

The proposed apartment house has been designed with the intent to blend in with current neighborhood context. The lot is located adjacent to Portage Avenue, a neighborhood corridor street, which will allow for the larger structure. Because this is a residential use, the proposed apartment house should not adversely affect 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 result in the construction of a building that does not respond to the context of buildings and uses along Portage Avenue.

(4) The variance granted is the minimum necessary

The proposed design for the apartment has four units in the building. The design has taken care to provide needed space for these units while keeping the building to the minimum width necessary.

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

The maximum width of an apartment house is a new standard within the ordinance. The previous ordinance would not have limited the size of the building. The lot location and configuration was not created by the previous or current owner.

Analysis & Recommendation

Analysis: The proposed variance is consistent with the character of the area and the intent of the ordinance. Approving the variance will allow for the construction of a multi-unit dwelling adjacent to a major corridor in the City.

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

Property Information

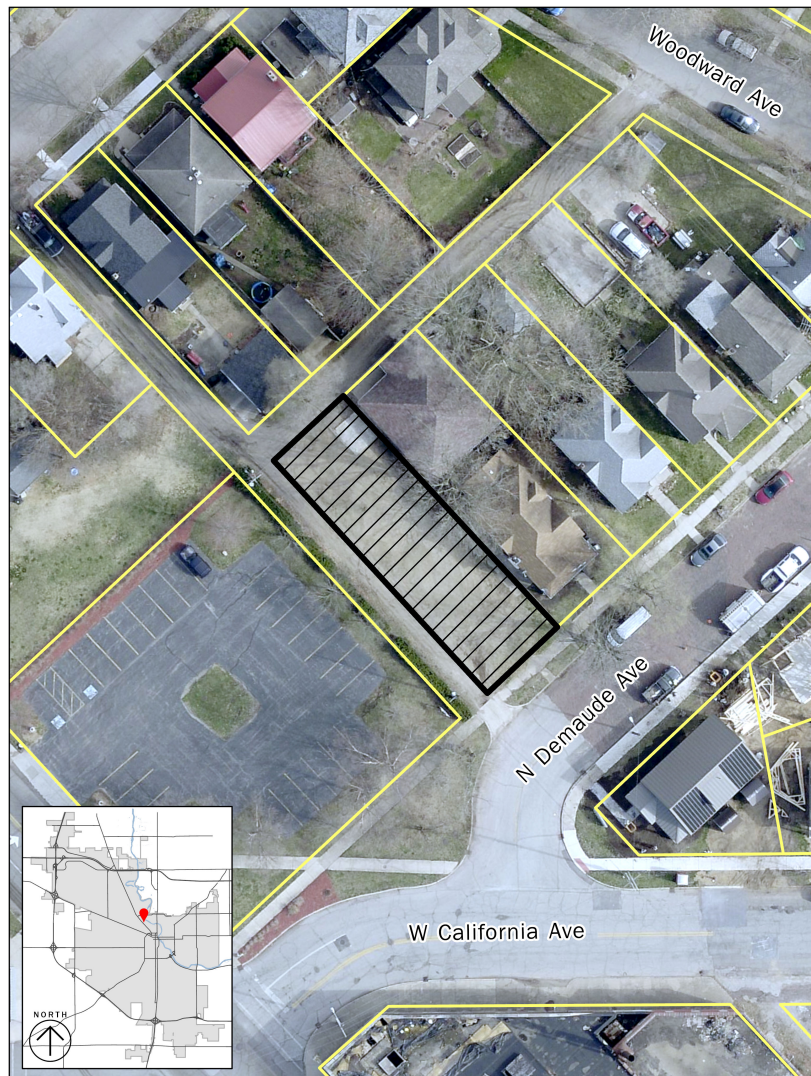
Location: 1017 DEMAUDE AVE
Owner: Near Northwest Neighborhood, Inc

Project Summary

Proposed new construction of a duplex, as part of neighborhood development, to remain owned and managed by the NNN.

Requested Action

Special Exception: a 2 unit dwelling in a U1 Urban Neighborhood 1 District

Site Location

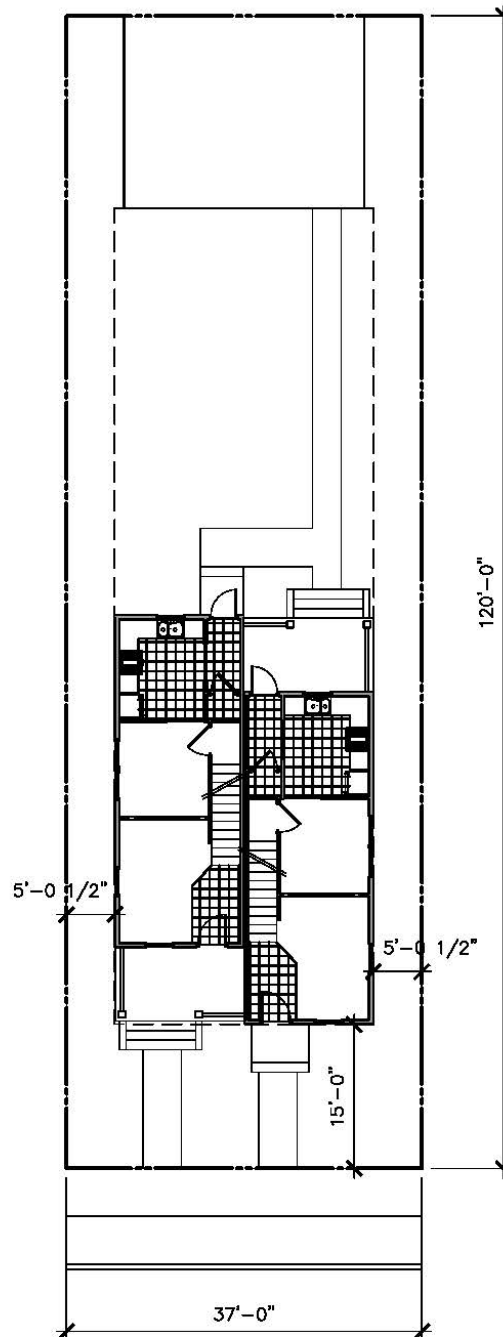
Staff Recommendation

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



1017 Demaude



Criteria for Decision Making: Special Exception

The petitioner is seeking a Special Use to allow:

A 2 unit dwelling in a U1 Urban Neighborhood 1 District

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;

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 adjacent to parcels zoned NC Neighborhood Center 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 NNN, 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: 802 S. LAFAYETTE BLVD

Owner: DEPARTMENT OF REDEVELOPMENT CITY OF SOUTH BEND

Project Summary

Site Development for the placement of an unmanned precast concrete communication shelter to house MetroNet's Fiber Optic Network Gear to provide GigE Internet services throughout South Bend.

Requested Action

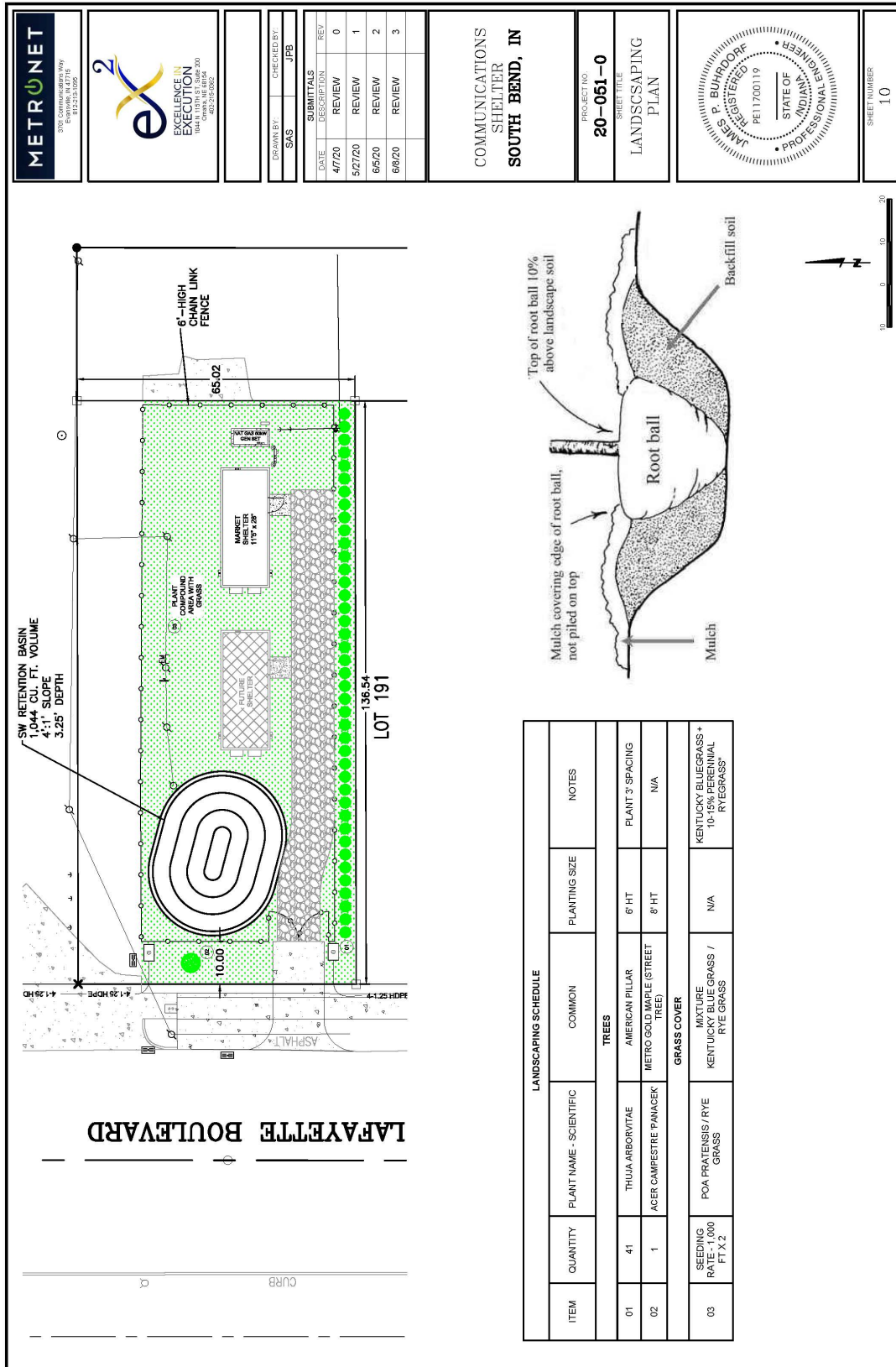
Variance(s): 1) From the required Type 3 Landscape Buffer to none on the north and east

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

Approval of the variance should not be injurious to the public health, safety, morals and general welfare of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner

The property is surrounded on three sides by properties zoned I Industrial, with the other side zoned C Commercial. None of the properties should be adversely affected by a lack of buffering, because the site is located in an area that is primarily industrial in nature.

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

Overhead utility lines are located on the north, along the vacated Franklin Street, and along the vacated alley to the east. These utilities, as well as the small lot size, create a practical difficulty in complying with the evergreen buffer required.

(4) The variance granted is the minimum necessary

The petitioner is requesting a variance from the required buffering on two sides of the property. The other side, where there are not utilities and space for installation, will comply with the ordinance.

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

The utilities were installed when the site was bordered on two sides by public right-of-way. The installation of the utility lines and vacation of the street were not caused by the current owner of the property.

Analysis & Recommendation

Analysis: The property is located in a primarily industrial area. The overhead power lines limit the ability to install trees, and the use of the adjacent properties is not such that the screening is necessary.

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