

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, October 5, 2020 - 4:00 p.m.

County-City Building
Fourth-Floor Council Chambers

PUBLIC HEARING:

1. **Location:** 905 STANFIELD ST and 911 STANFIELD ST BZA#0029-20
Owner: ROBBY H RASK TRUST & PAMELA P RASK TRUST
Requested Action: Variance(s): 1) From the 70' maximum lot width in the NNZO Overlay District to 103'
Zoning: U1 Urban Neighborhood 1
2. **Location:** 1921 IRONWOOD DR BZA#0031-20
Owner: KENTA I & BONITA A RAINE
Requested Action: Variance(s): 1) From the 6' maximum fence height to 7' - 6"
Zoning: U1 Urban Neighborhood 1
3. **Location:** 116 DAYTON ST BZA#0032-20
Owner: RANDOLPH GILLEAND
Requested Action: Variance(s): 1) From the required location of a garage either at the 5' setback or not less than 18' from the alley to 11'; and 2) From the 5' minimum side setback to 4'-6"
Zoning: U1 Urban Neighborhood 1
4. **Location:** 823 Northside Boulevard BZA#0033-20
Owner: JASON ALAN COLQUITT AND CATHERINE COLQUITT
Requested Action: Variance(s): 1) From the 4' maximum fence height in an established front and corner yard to 5'
Zoning: U1 Urban Neighborhood 1
5. **Location:** 4401 MICHIGAN ST BZA#0034-20
Owner: BARNES DEVELOPMENT COMPANY LLC
Requested Action: Variance(s): 1) From the required 10' bail out lane for the drive through to none; 2) From the 24' minimum drive aisle width to 23'; and 3) From the 10' minimum parking setback to 5' on South Michigan
Zoning: C Commercial

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – September 8, 2020
2. Minutes – September 8, 2020
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

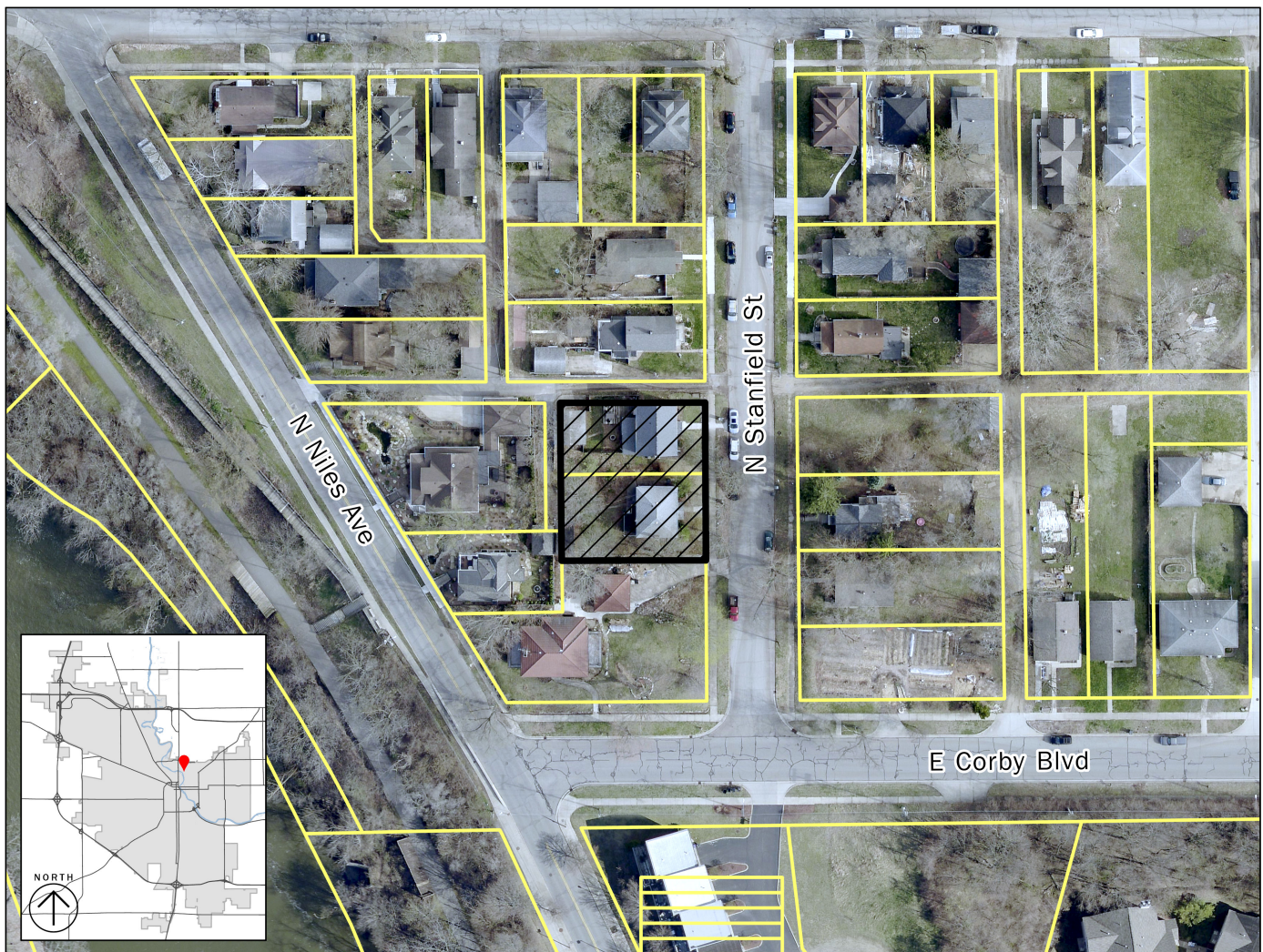
Location: 905 STANFIELD ST and 911 STANFIELD ST
Owner: ROBBY H RASK TRUST & PAMELA P RASK TRUST

Project Summary

Raze two existing houses and one accessory structure to replace them with a new house.

Requested Action

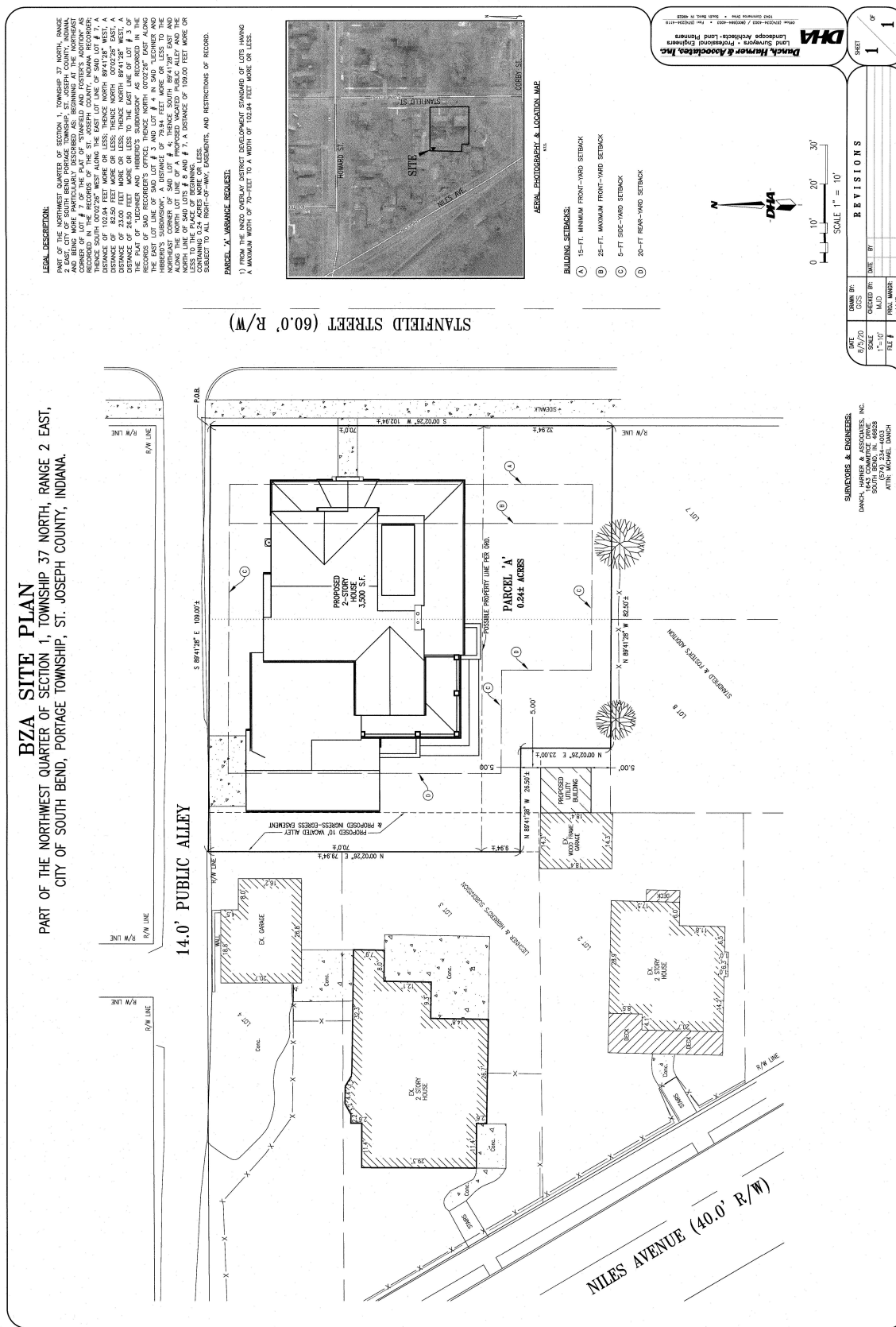
Variance(s): 1) From the 70' maximum lot width in the NNZO Overlay District to 103'

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 will not be injurious to the public health, safety, morals and general welfare of the community. Establishment of the larger lot should not negatively impact the surrounding 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 area adjacent to the property is primarily one-unit dwellings. Establishing a larger lot size for a new one-unit dwelling should not adversely affect the surrounding area.

(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 a portion of the land to either be subdivided or sold to another entity. The remainder of the lot is not being developed at this time, but the proposed development would meet all the development standards for a 70' wide lot and a 33' wide lot if or when the property is subdivided in the future.

(4) The variance granted is the minimum necessary

The proposed variance is the minimum necessary to provide enough space for a second house to be constructed on the southern lot, meeting the intent of the ordinance.

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

The proposed variance does not correct a hardship caused by a former or current owner of the property. The proposed house is consistent with the requirements of the ordinance and is sited on the property in such a way that would still allow for this to be developed as two compliant buildable lots.

Analysis & Recommendation

Analysis: Strict application of the ordinance would require a portion of the land to either be subdivided or sold to another entity. The remainder of the lot is not being developed at this time, but the proposed development would meet all the development standards for a 70' wide lot and a 33' wide lot if or when the property is subdivided in the future. This solution meets the intent of the ordinance by preserving the ability for two houses to be constructed where two once existed.

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

Property Information

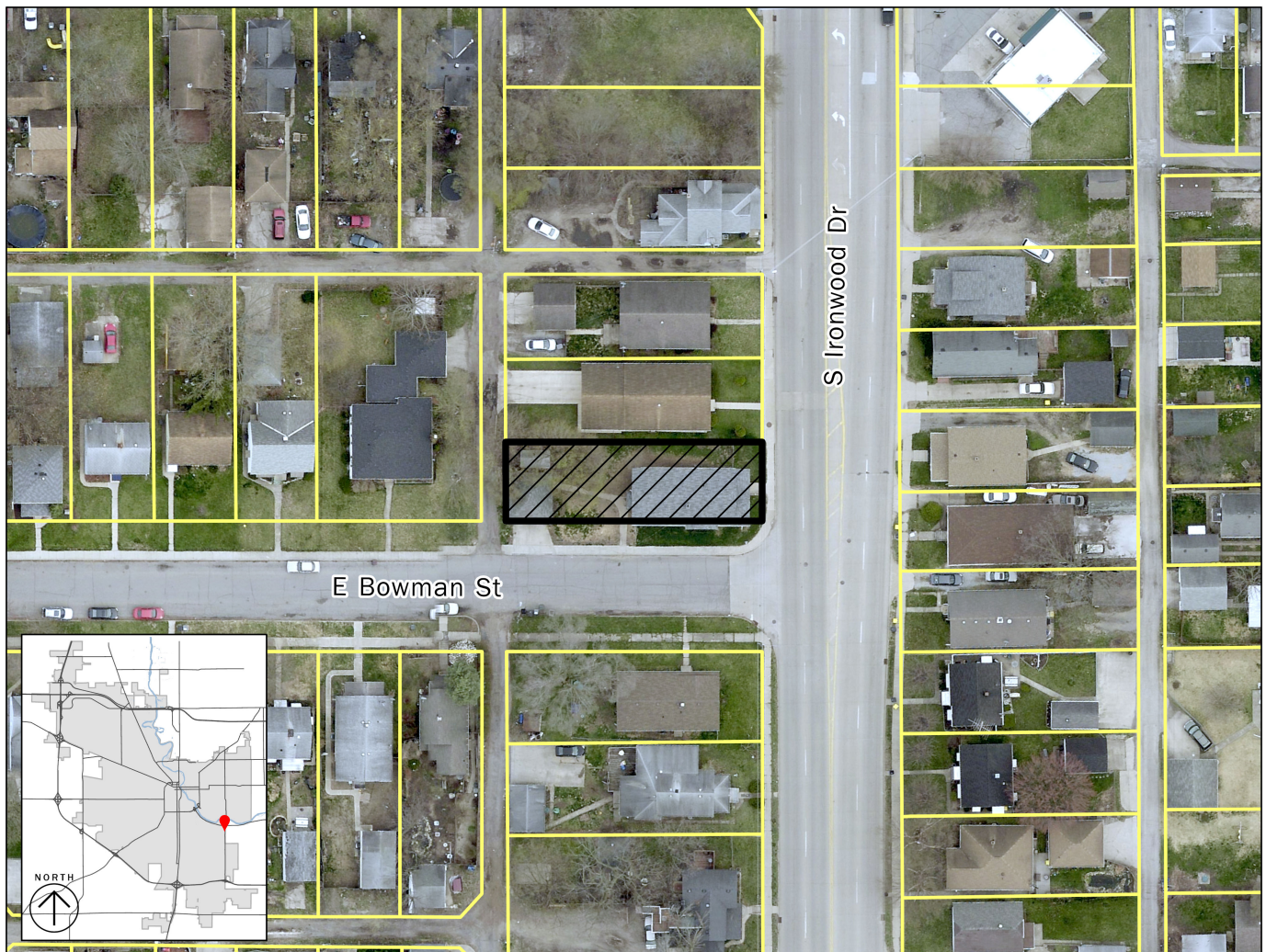
Location: 1921 IRONWOOD DR
Owner: KENTA I & BONITA A RAINE

Project Summary

Construction of a 7-1/2' fence privacy fence.

Requested Action

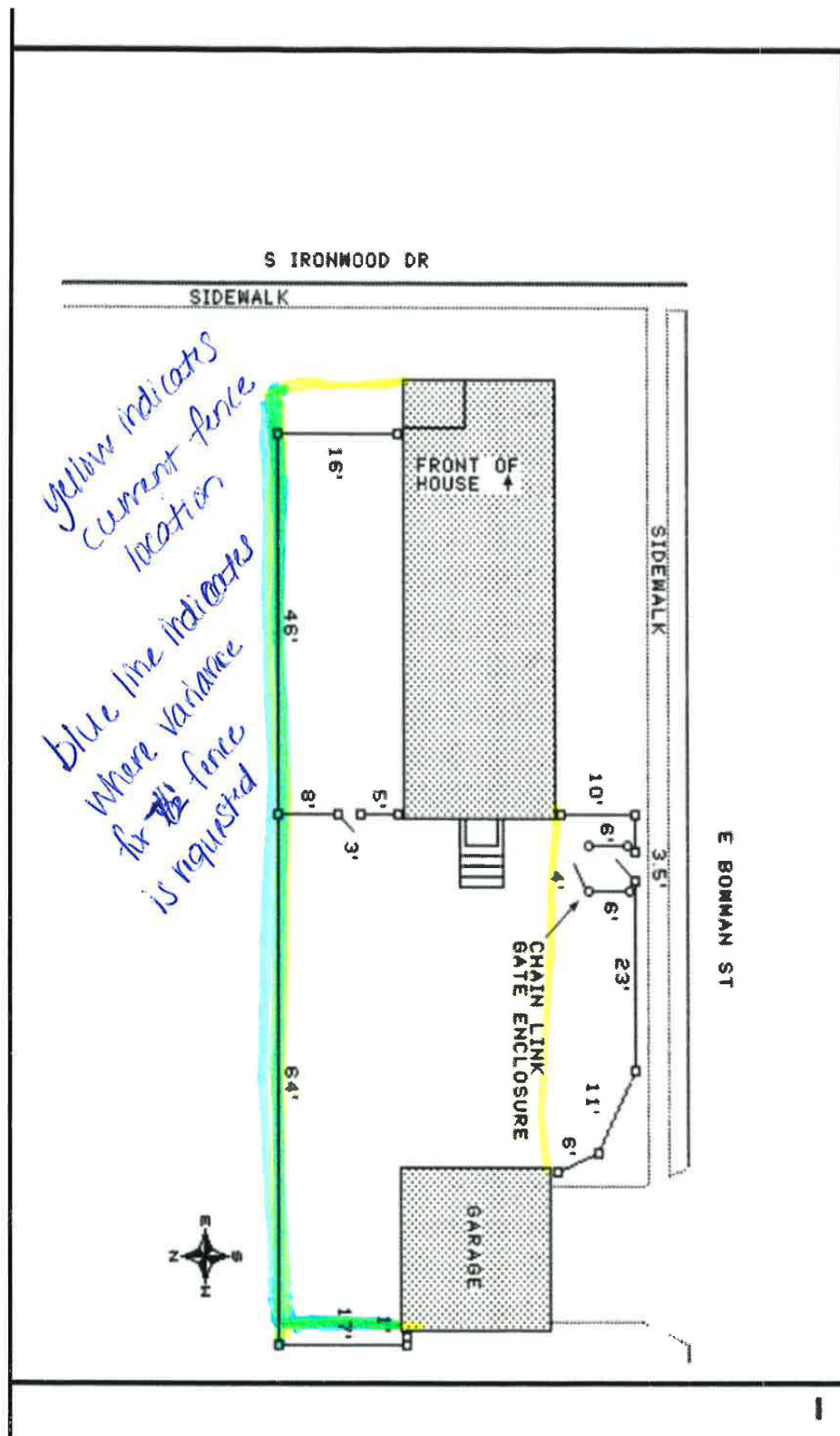
Variance(s): 1) From the 6' maximum fence height to 7' - 6"

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

Approval of the variance request may be injurious to the public health, safety or general welfare of the community in that it would significantly impact 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

Privacy fences above the 6' maximum height create a character and atmosphere that is not consistent with the intent of the U1 Urban Neighborhood District. Fences greater than 6' without practical difficulties impede the use and 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

The strict application of the ordinance would not result in practical difficulties in the use of the property. The overall height of the fence should be consistently at 6'. Any adjustments should either follow the grade of the property or be based on the lowest elevation. 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 6' fence, as allowed by the ordinance, would achieve the same purpose as stated in the petitioner's request, granting a variance to allow a 7' - 1/2" 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 owner installed the fence at a height that is not allowed per the ordinance, in violation of the building permit granted for a 6' fence. 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: Based on the information provided prior to the public hearing, the staff recommends the Board deny the variance as presented.

Property Information

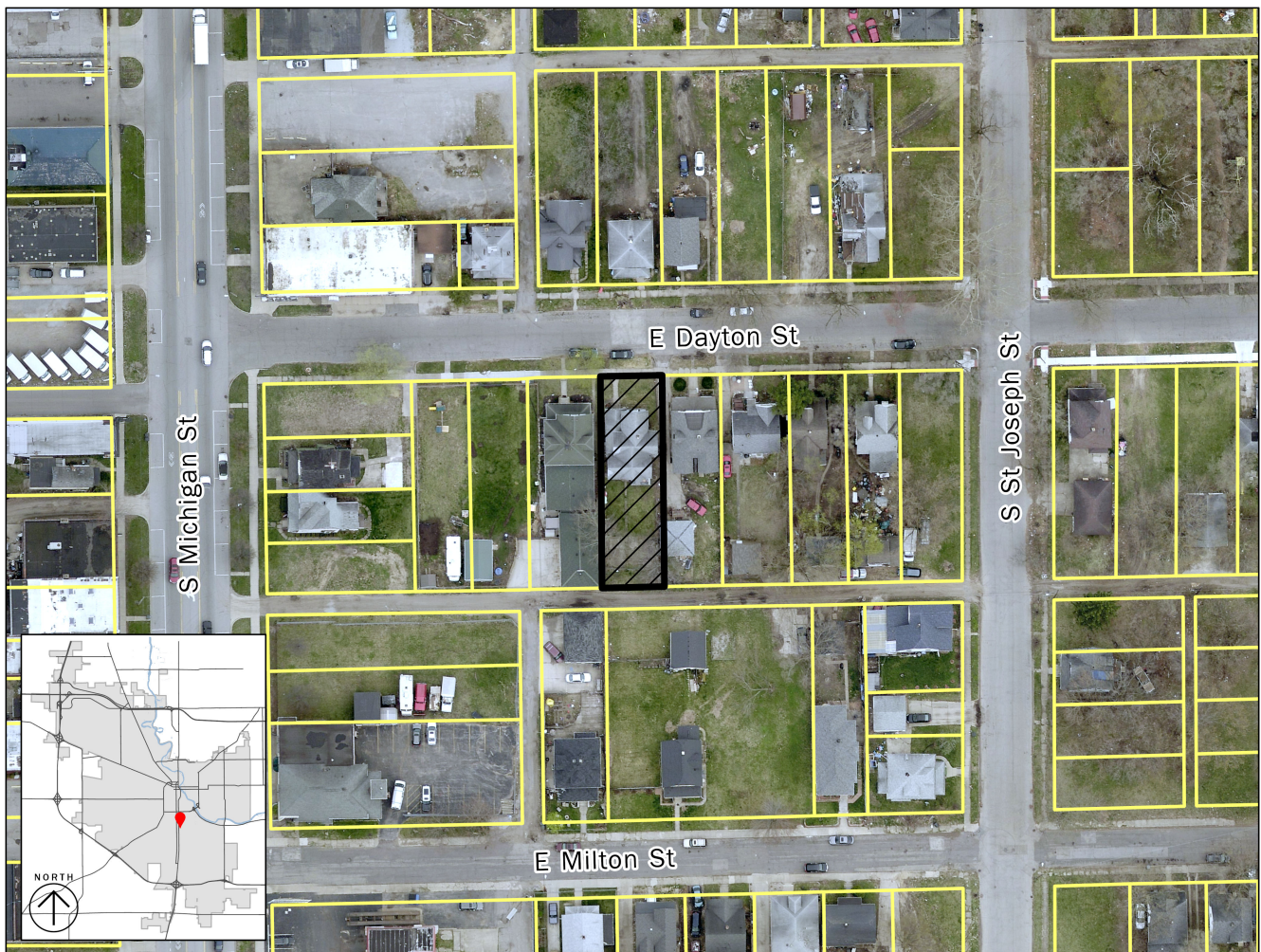
Location: 116 DAYTON ST
Owner: RANDOLPH GILLEAND

Project Summary

Construction of a metal garage building.

Requested Action

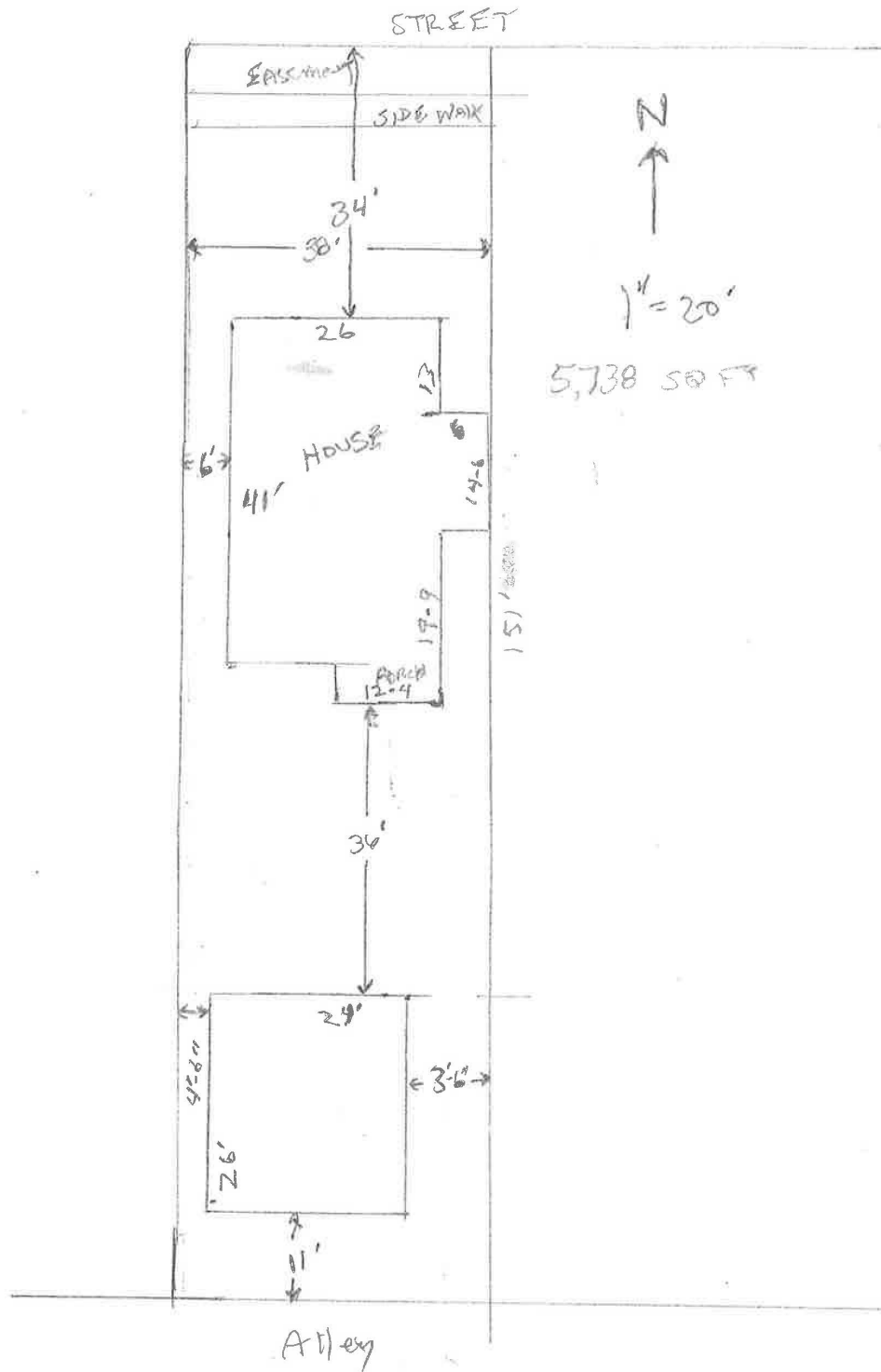
Variance(s): 1) From the required location of a garage either at the 5' setback or not less than 18' from the alley to 11'; 2) From the 5' minimum side setback to 4'-6"

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

Approval of the garage as presented could lead to cars parking behind the garage and impeding the alley, which may negatively impact 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

The side and rear setbacks are designed for the protection of adjacent property owners, as well as the general public when adjacent to an alley. The proposed variances may adversely impact the use and 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

The strict application of the ordinance would not result in practical difficulties in the use of the property. Nothing on the property necessitates reducing either the side setback or the location in relation to the alley.

(4) The variance granted is the minimum necessary

Because there is no hardship on the property, the proposed garage could be installed in compliance with the ordinance.

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

The owner installed the garage without a building permit in an area 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. The same sized garage could be placed on the property without needing any variances.

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

Property Information

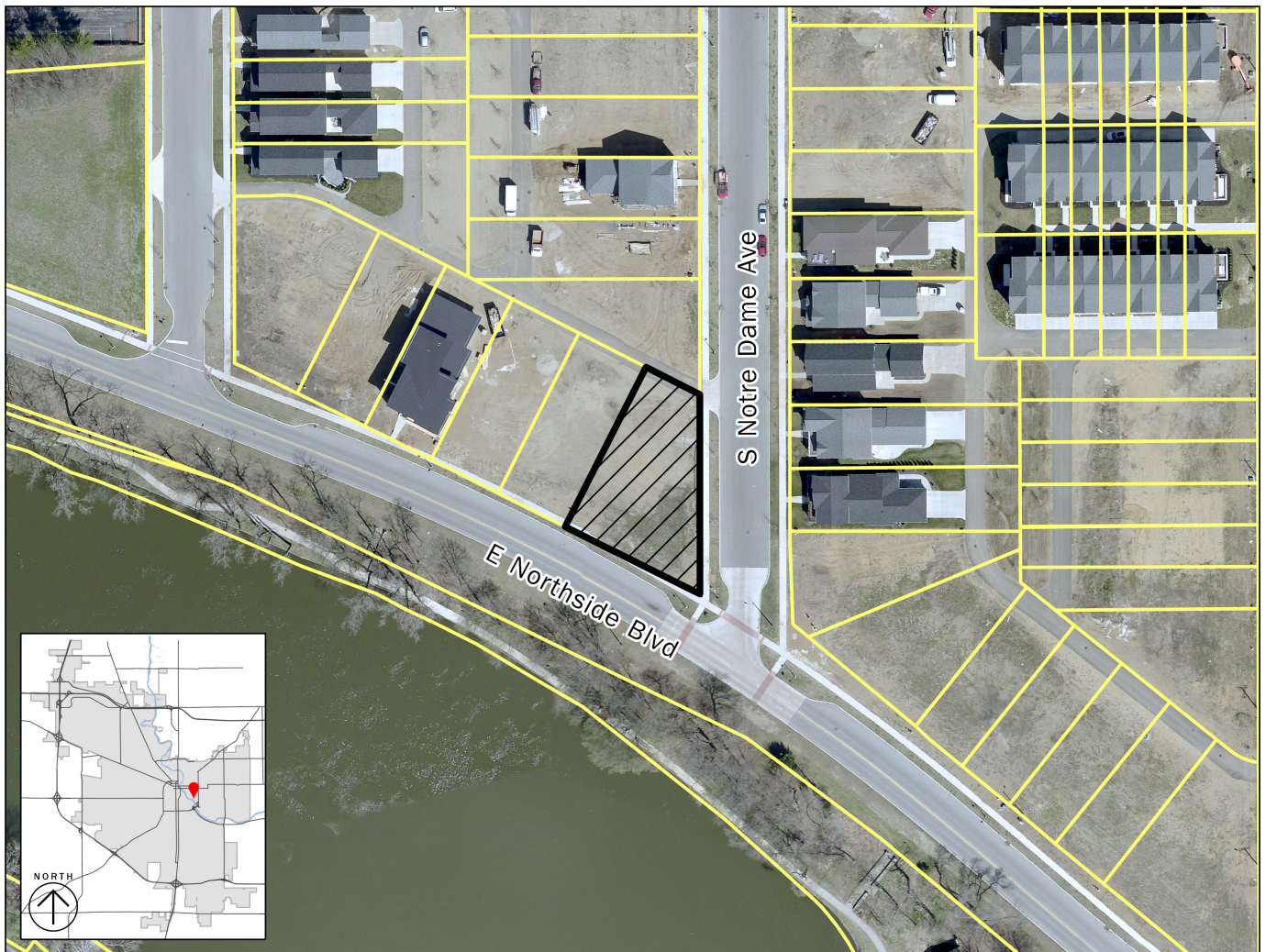
Location: 823 Northside Boulevard
Owner: JASON ALAN COLQUITT AND CATHERINE COLQUITT

Project Summary

Construction of a 5' open fence in the established front and corner yard.

Requested Action

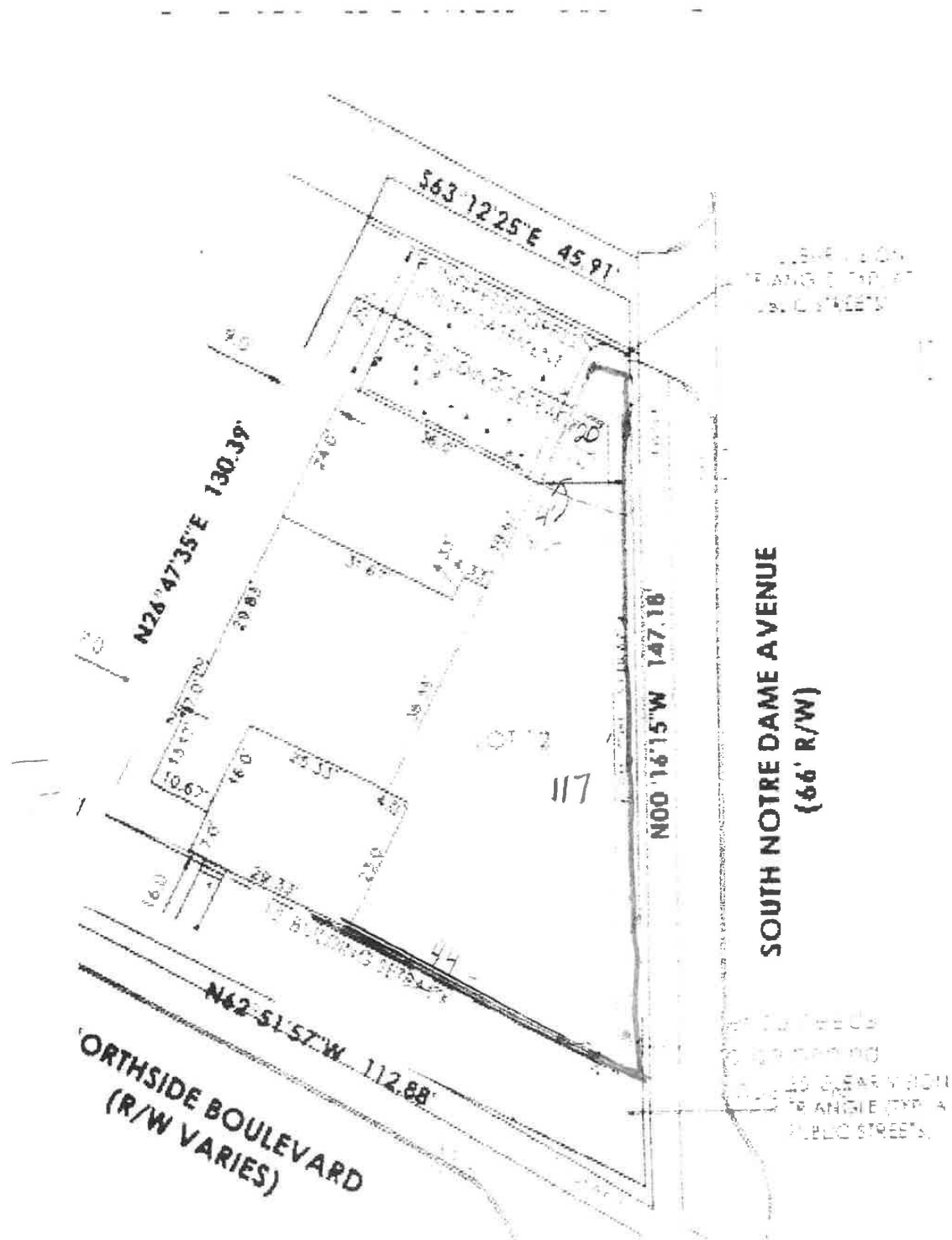
Variance(s): 1) From the 4' maximum fence height in an established front and corner yard to 5'

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

A fence greater than 4', even when it is more than 70% open, in an established front yard can affect the character of the area. The impact to the general welfare of the community is even more greatly impacted when that fence is immediately adjacent to a public sidewalk.

(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 U1 Urban Neighborhood 1 residential district. A fence greater than 4' in an established front yard may adversely impact the use and 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

The strict application of the ordinance would not result in practical difficulties in the use of the property. There is nothing unique on this property that does not apply to other corner properties throughout the City.

(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 would not be 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 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: Based on the information provided prior to the public hearing, the staff recommends the Board deny the variance as presented.

Property Information

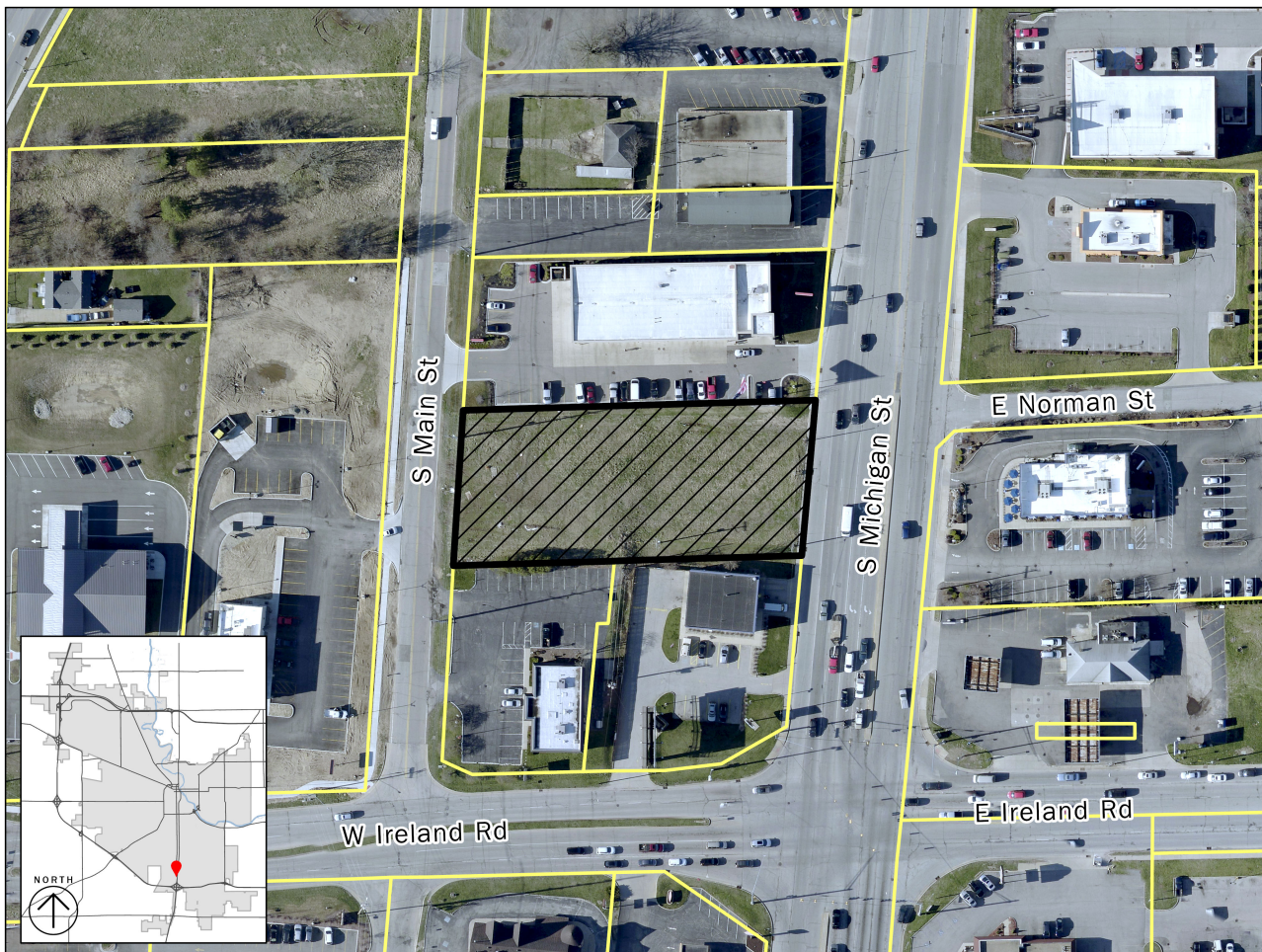
Location: 4401 MICHIGAN ST
Owner: BARNES DEVELOPMENT COMPANY LLC

Project Summary

The petitioner plans to construct a building for retail sale of prepared food and beverages, with a drive-thru window.

Requested Action

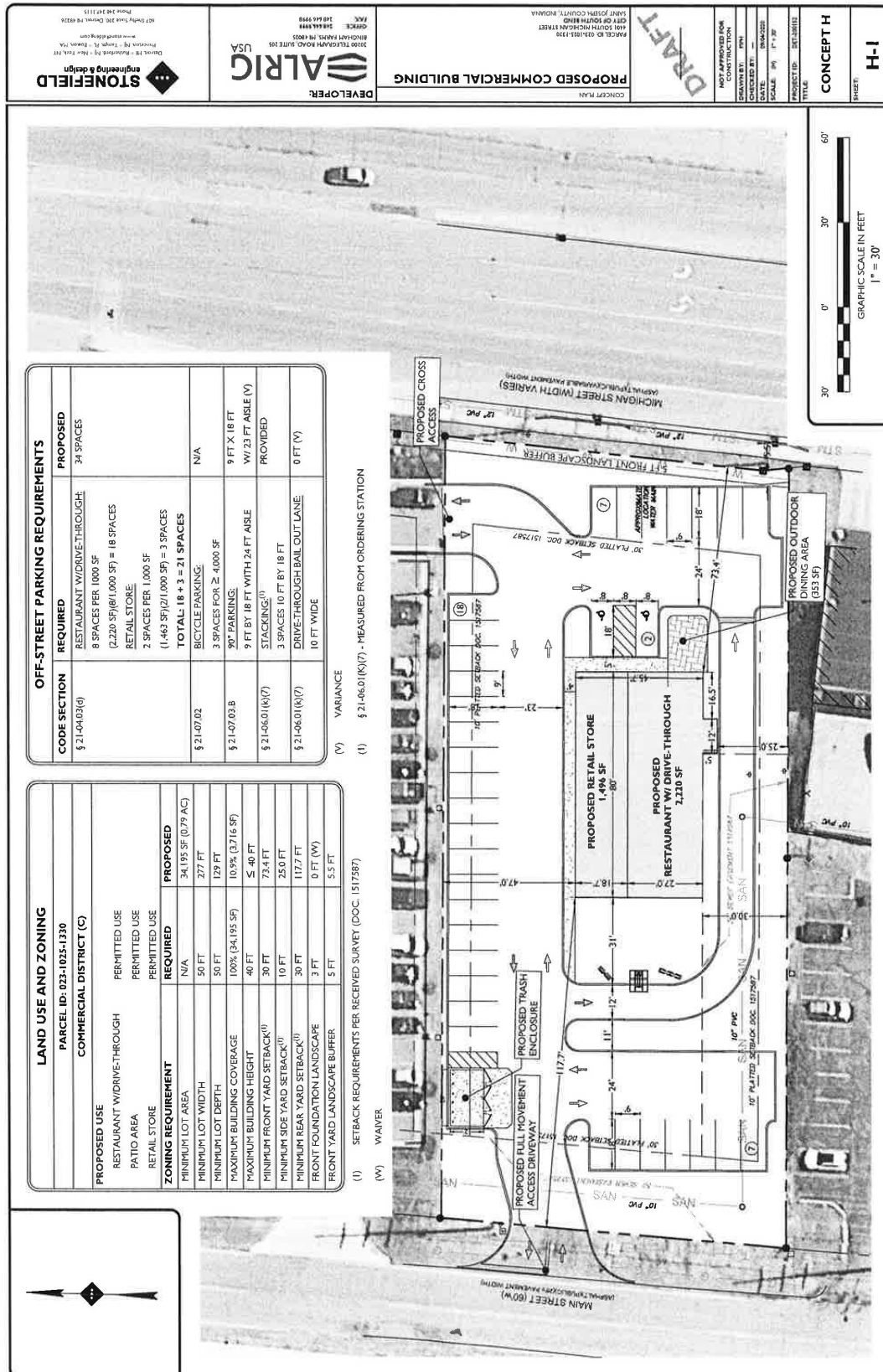
- Variance(s): 1) From the required 10' bail out lane for the drive through to none
2) From the 24' minimum drive aisle width to 23'
3) From the 10' minimum parking setback to 5' on South Michigan

Site Location

Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance for the 10' bail out lane and reduction in drive aisle width as presented. The staff recommends the Board deny the variance request for the minimum parking setback.

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 development is in a commercial district with similar businesses. The proposed variances should not impede traffic in any surrounding areas. Allowing parking too close to the front setback could impact traffic safety. With proper setbacks, the proposed variance requests will not impact 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

The variances requested are generally consistent with the commercial properties in the area and should not adversely impact the use or value of those properties.

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

The property has a steep grade change and large utility easement along the southern property line. Strict application of the ordinance would make it impractical to develop the site for almost any commercial use that required any site circulation. There is sufficient room on the site to accommodate required parking, so there is no practical difficulty as it relates to the parking setback request.

(4) The variance granted is the minimum necessary

Elimination of the bail out lane reduces the amount of potential interference with the existing sewer easement. A variance from the bailout lane is the least impactful to the efficient flow and use of the property and it only affects drivers once they decide to enter the drive-through. The request from the minimum front setback for parking could be eliminated by removal of the spaces encroaching into the setback.

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

With the exception of the parking setback, the hardship created by this narrow lot impeded by a large sewer easement is not caused by the current or former owners of the property. The sewer easement greatly impacts the location of any commercial building on this site and the circulation of vehicles through the site for commercial development.

Analysis & Recommendation

Analysis: The existing sewer easement and elevation change of the property greatly impact the ability for this commercially zoned property to be developed. The requested variances would allow for reasonable development with minimal variations from the development standards.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance for the 10' bail out lane and reduction in drive aisle width as presented. The staff recommends the Board deny the variance request for the minimum parking setback.