

Agenda
GOSHEN BOARD OF ZONING APPEALS
Tuesday, June 27, 2023, 4:00 P.M.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

- I. Roll Call
- II. Approval of Minutes from 5/23/23
- III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV. Postponements/Withdrawals – any person having business to come before the Board may request postponement or withdrawal at this time.
- V. **Use & Developmental Variances**– public hearing items
 - 23-13DV** –Maple City Health Care Center, Inc. requests a developmental variance to allow an illuminated freestanding sign approximately 15 SF in area and 4’ in height where only ground signs not exceeding 3’ in height and 8 SF in aggregate area are permitted. The subject property is generally located at 213 & 215 Middlebury Street, includes six tax parcels and two parking lots, and is zoned Residential R-1 District.
 - 23-14DV** – Cassandra A Beachy & Christopher K Beachy and Ken Beachy request a developmental variance to allow two primary buildings where only one is permitted for the construction of an approximately 714 Sf detached garage and dwelling unit in addition to an existing home. The subject property is generally located at 511 S Winter Avenue and is zoned Residential R-2 District.
 - 23-15DV** – James B Shenk & Rachel A Shenk request developmental variances to allow a front building setback of 5’ from Cottage Avenue where 25’ is required and a side (south) building setback of 1’ where 5’ is required for the construction of an approximately 440 SF detached garage. The subject property is generally located at 606 S 7th Street and is zoned Residential R-1 District.
 - 23-05UV** – Michael Thompson requests a use variance to allow an event center (auditorium) where auditoriums are a permitted use in the Commercial B-2 & B-3 districts and Industrial M-1 & M-2 districts. The subject property is generally located at 1001 & 1003 N Main Street and is zoned Commercial B-1 District.
 - 23-16DV** – Loupa’s Enterprise, LLC, Robert Keim, and Turkey Creek Construction request a developmental variance for a side (north) building setback of 5’ where 8’ is required for an approximately 1,088 Sf second story expansion. The subject property is generally located at 819 Lincolnway East and is zoned Residential R-1 District.
- VI. Audience Items
- VII. Staff/Board Items
- VIII. Adjournment

Minutes - Goshen Board of Zoning Appeals
Tuesday, May 23, 2023, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Bethany Campbell, Tom Holtzinger, Hesston Lauver, and Michael Potuck. Also present were Assistant City Planner Rossa Deegan, and Assistant City Attorney James Kolbus. Absent: Lee Rohn

II. Approval of Minutes from 4/25/23: Potuck/Lauver 4-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Campbell/Potuck 4-0

IV. Postponements/Withdrawals - None

V. Use & Developmental Variances – public hearing items

23-04UV –Jose J & Maria I Hernandez and Carlos Avelar request a use variance to allow a non-lawful, non-conforming residential use and connection to a septic system to continue for a period not exceeding five years, where residential use is not permitted and connection to City sewer is required, and for the property to be served by a well until City water is available, where connection to City water is required. The subject property is generally located at 1833 Lincolnway East and is zoned Commercial B-3 District.

Staff Report

Mr. Deegan explained this triangular parcel is zoned Commercial B-3 and is surrounded by commercial and industrial zoning. The property has no street frontage, and the entrance to the property is between Goodwill and Menards. He noted the past use was residential, but the residential use ceased several years ago. Because of a septic failure on the property, Planning became aware that this property is again being used illegally for residential use. A variance is required to allow the septic to be repaired without connecting to City sewer, for the use of a well where City water is required, and to allow a non-conforming, non-lawful use to continue.

The petitioners request a variance to allow this use for a period of five years, which Staff is agreeable to. He explained there are a number of factors warranting this approval, primarily that the failing septic system is a health hazard to this and surrounding properties. City water is not available to the property, and future use of the property is not clear at this time, with one possibility being that future improvements to US 33 in this area may cause the need for this property to be used for stormwater retention.

He noted for the record that there was one inquiry from a representative from Menards who offered no support or opposition to the request.

Petitioner Presentation:

Carlos Avelar, 1744 Lighthouse Lane, spoke on behalf of the petitioner. He stated his clients would like to continue using the property for residential use for at least five more years. He stated they're working with several companies to get quotes for a temporary septic system, noting that this will be very expensive and at the end of five years, no one know what will happen with this property. He asked that his client be permitted to continue this use for five years, at which time the use will cease.

Mr. Holtzinger asked if they anticipate the property will be sold in five years.

Mr. Avelar remarked that they are unsure what the City or State has planned for the property.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Lauver asked if they can petition for an extension at the end of five years if the road project does not impact this site.

Mr. Deegan stated Planning's position is that the residential use needs to cease because it is not appropriate in this area. He noted if they want to continue past five years, that yes, it would have to come back before the Board with another request.

Mr. Holtzinger stated there are commercial buildings around this and asked why water is not available. Mr. Deegan stated he doesn't think water is available on that side of the street.

Dustin Sailor, Director of Public Works, spoke to Mr. Holtzinger's question. He stated water is available on this side of the street, but not directly to that site. He explained there are easements and the easement gives them access to sewer right now.

Action:

A motion was made and seconded, Lauver/Potuck, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 23-04UV with the 6 conditions and 4 commitments listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

23-12DV - The City of Goshen Indiana requests a developmental variance to allow one freestanding sign 24 Sf in area and 8' in height in addition to the two freestanding signs and internal signs approved by variance 23-07DV, where only ground signs not exceeding 3' in height and with a maximum aggregate area of 8 Sf are permitted, for a new recycling drop-off site. The subject property is generally located at 802 N Indiana Avenue and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained the Board approved two freestanding and internal signs for this property a couple months ago. The property is located on the west side of Oak Ridge Cemetery, adjacent to the wastewater treatment plant and the railroad. There are also residential property across Wilden Avenue to the north. He explained a variance is required because this property is zoned Residential R-1 District, and only ground signs not exceeding 3' in height and 8 SF in aggregate area are permitted. He explained that the two freestanding signs recently approved were a 13 SF sign near the road and an approximately 24 SF sign internal to the site. The petitioners now request an additional internal sign of 24 SF which will provide Spanish translation. Staff supports this request noting that the signs will not harm the neighboring uses or value. He went on to say as with the previous approval, this sign will be non-illuminated. He advised that the Planning Office was not contacted by the public regarding this request.

Petitioner Presentation:

Dustin Sailor, Director of Public Works spoke to the petition. He stated they are in agreement with Staff's report and have nothing to add.

Mr. Holtzinger asked how well this new site is working.

Mr. Sailor responded that there is a lot of material and they're having challenges with people placing material outside and leaving material that's unacceptable for recycling.

Mr. Holtzinger asked if a sign in Spanish will help with this.

Mr. Sailor stated they're looking for any opportunity to correct this, explaining that cameras onsite are identifying people doing things they shouldn't. The City is working with the Goshen Police Department who have Flock cameras along Indiana Avenue so if the cameras don't capture the license plate, they can at least can provide the vehicle type and the time, and PD can assist with the rest of the information needed. The City can then contact the person that has not used the site properly. He noted that they will be going to the Board of Works in the near future to establish rules to better enforce how the site is used, noting that fines are in the future.

Audience Comments:

None

The public hearing was closed.

Staff Discussion:

None.

Action:

A motion was made and seconded, Potuck/Lauver, to adopt the Staff recommendations as the findings of the Board and approve 23-12DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items
None

VII. Staff Board Items
None

VIII. Adjournment: 4:16 pm Potuck/Lauver

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

Tom Holtzinger, Chair

Lee Rohn, Secretary

LOCATION: 213 & 215 Middlebury Street
CASE NUMBER: 23-13DV

DATE: June 27, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Maple City Health Care Center, Inc. (owner)

REQUEST: The applicants request a developmental variance to allow an illuminated freestanding sign approximately 4' in height and 15 SF in area where only ground signs not exceeding 3' in height and 8 SF in aggregate area are permitted

LOT SIZE: ±0.9 acres; ±409' of frontage (±236' on Middlebury Street & ±173' on 6th Street); depth varies

APPLICABLE ZONING: R-1

NOTICES SENT: 33

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential, institutional

NEIGHBORHOOD: Chamberlain

THOROUGHFARES: Middlebury, 6th Street

TOPOGRAPHY: Includes northeastward from the southwest

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 5100.3*, Permitted Signs by District
 - A. Signs permitted in the A-1 Agricultural District and R-1, R-1S, R-2, R-3, and R-4 Residential Districts are as follows:
 1. The maximum aggregate area for all signs on the zoning lot, regardless of sign type, shall be no greater than eight (8) square feet
 2. Only ground signs are permitted

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is an approximately one-acre site located on the corner of Middlebury Street and N 6th Street, just north of Chamberlain Elementary School. Other surrounding properties are predominantly residential. The property includes two buildings and two parking lots. The main building on the property was previously a fire station until it was converted to a health office in 1988. Since that time, a total of seven use variances and nine developmental variances have been approved for the expansion of the health center.

The petitioners are proposing to replace an existing sign in the front yard with a new illuminated freestanding sign. There is no record of approval for the existing sign, and the R-1 District limits signs to ground signs not exceeding 3' in height and 8 SF in aggregate area, so a developmental variance is required. The proposed sign is approximately 4' in height, 15 SF in area, and will be internally illuminated.

Staff recommends approval of the request. At 4' in height, the proposed sign is negligibly taller than what is permitted, and the proposed 15 SF area is significantly less than what is permitted for schools and parks (36 SF),

which are both permitted in the R-1 District. The proposed sign will be located on Middlebury Street, which is classified as arterial, and it will be directly adjacent to a school, which will not be adversely impacted. Lastly, the size of the property and its location on two street frontages justifies an illuminated sign moderately larger than what is permitted.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow an illuminated freestanding sign approximately 4' in height and 15 SF in area where only ground signs not exceeding 3' in height and 8 SF in aggregate area are permitted, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed sign will be set back from the property line a distance of 6', providing ample distance from pedestrian use of the sidewalk and vehicle use of the street. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The proposed sign will be located on Middlebury Street, which is classified as arterial, and it will be directly adjacent to a school, which will not be adversely impacted. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The health care office serves residents in the subject neighborhood, and the sign allowances of the R-1 District will not adequately serve the health center use. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. A building permit is required
5. The proposed sign shall not interfere with existing stormwater retention on the property.



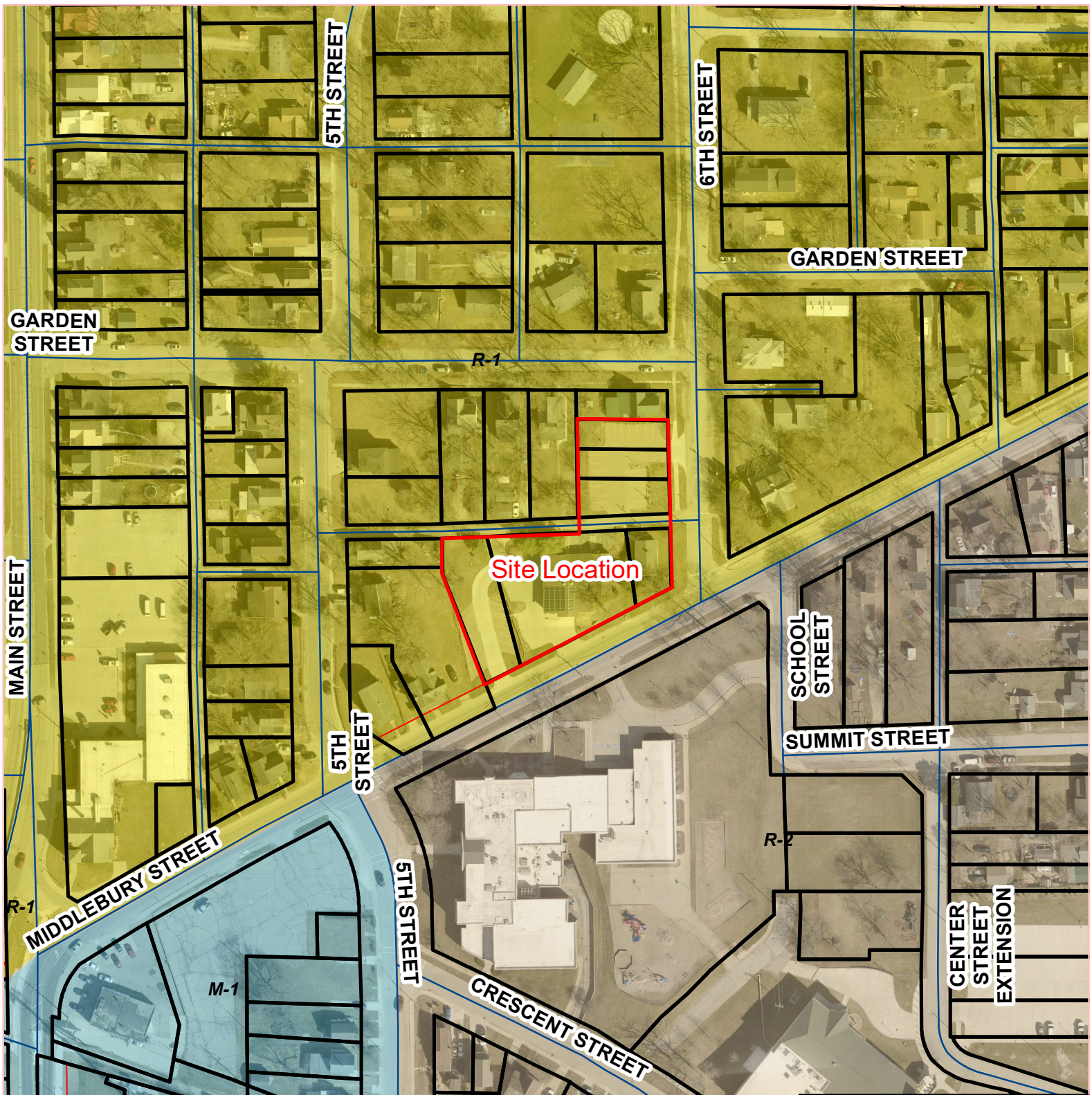
Looking north across Middlebury Street



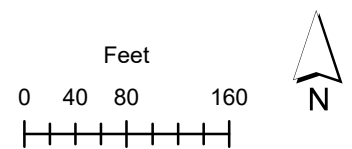
Looking north-northeast along Middlebury street



Looking south-south-west along Middlebury Street



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Maple City Health Care Center

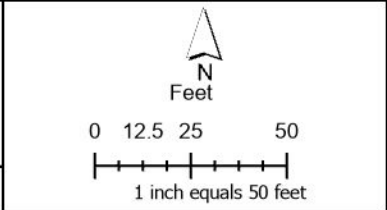
2021 Aerial
Printed June 8, 2023

The City of Goshen
Department of
Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



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209-213-215 Middlebury Street

2021 Aerial
 Printed on 3/29/2023

The City of Goshen
 Department of
 Planning & Zoning
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626



NOTES

To install new foundation and brick base.

**1- double sided acrylic push through sign internally lit with leds.
To install 1- new brick base with install and tax \$10,166.25**



"Our Signs Mean Business"

GOSHEN, IN • (574) 533-8585

CUSTOMER:

DATE:

ADDRESS:

SCALE:

THIS IS THE SOLE PROPERTY OF PREMIERE SIGNS AND MAY NOT BE REPRODUCED WITHOUT THEIR CONSENT.

LOCATION: 511 Winter Avenue
CASE NUMBER: 23-14DV

DATE: June 27, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Cassandra A. Beachy & Christopher K. Beachy (owners); Ken Beachy (agent)

REQUEST: The applicants request a developmental variance to allow two primary buildings where only one is permitted for the construction of an approximately 714 Sf detached garage and dwelling unit in addition to an existing home

LOT SIZE: ±14,231 SF; ±106' of frontage; ±134' of depth

APPLICABLE ZONING: Residential R-2

NOTICES SENT: 40

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential

NEIGHBORHOOD: West Goshen

THOROUGHFARES: Winter Avenue

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

◇ Goshen Zoning Ordinance, *Section 5140*, Primary Buildings or Structures

A. More than one primary structure may be constructed on a single parcel in the R-3 and R-4 Residential District, the B-2, B-3, and B-4 Commercial Districts, and in the M-1 and M-2 Industrial Districts, provided that all requirements of this ordinance shall be met for each primary structure and accessory structure as though it were on an individual lot.

B. All other zoning districts in this ordinance shall allow only one primary building or structure per lot.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single-family home located on Winter Avenue in the West Goshen Neighborhood. Residential uses surround the home in a mixture of R-1, R-2, and A-1 zoning. Improvements on the property include a one-story home with an approximate footprint of 1,617 SF and a two-car garage accessed by an approximately 75' long driveway.

The petitioners are proposed to demolish the existing garage and rebuild it as a two-story garage and second dwelling unit. The petitioners state that their intention is to use the additional dwelling to allow a parent to age in place. The R-2 District allows single family and duplex uses, and duplexes are structures that include two dwellings in the same building. Because the proposed second dwelling will be in a separate building, and because the R-2 District prohibits more than one primary building on a single lot, a developmental variance is required.

Staff recommends approval of the request. Because the R-2 District allows duplexes, the proposed second dwelling unit above the garage will function the same as other permitted uses in the district. If both buildings were structurally connected, a variance would not be necessary. All other developmental requirements will be met, including the following:

- Minimum parking – the garage will have two parking spaces and the driveway has ample room outside the front yard to park two additional vehicles
- Minimum setbacks – both the existing home and the proposed garage meet the minimum district requirements or the block average setbacks, and both have ample side and rear yards
- Lot size – the R-2 District requires a minimum of 10,000 SF of lot size for two-family use, and the subject property exceeds 14,000 SF of lot area
- Building coverage – building coverage will be approximately 16.3% where up to 35% is permitted

The petitioners have consulted with the Engineering and Building departments, and all parties appear comfortable that requirements can be met.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance to allow two primary buildings where only one is permitted for the construction of an approximately 714 Sf detached garage and dwelling unit in addition to an existing home, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed building will be over 20' from the closest property line, built to building code standards, served by adequate onsite parking, and connected to City water & sewer. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The dimensions of the property are such that all other developmental requirements will be met, including minimum lot size, minimum setbacks, and maximum building coverage. Given that the R-2 district allows two-unit buildings, the use will not be detrimental to surrounding properties. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The need for the variance arises because the two dwelling units will be in separate buildings, despite being very close together. If the building were structurally connected, even with something as simple as an open-air breezeway, the variance would not be required. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. A building permit is required.
5. The new building shall connect to City water and sewer.
6. Review by the Engineering, Building, and Fire departments is required.



Looking northwest from Winter Avenue



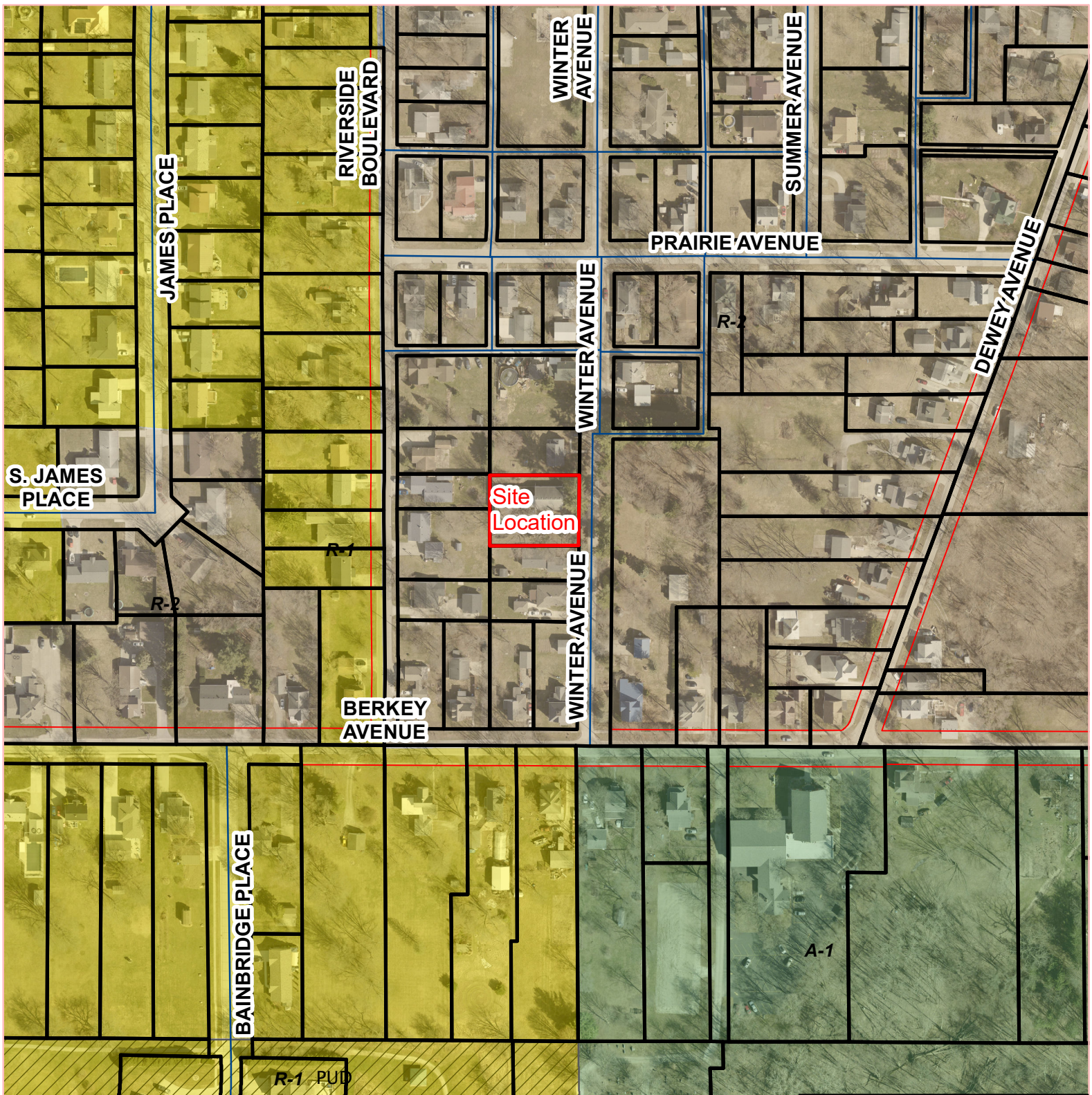
Looking west



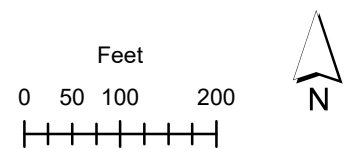
Looking north across front yard



Looking south across front yard



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511 S Winter Ave

2021 Aerial
Printed June 8, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

June 6, 2023

Christopher Beachy
511 S. Winter Ave
Goshen, IN 46526

To the Board of Zoning Appeals of the City of Goshen:

This Letter of Intent is in support of my request for a variance to construct an Additional Dwelling Unit (ADU) above the existing garage structure on my property. During our two-year long search for a home, my father's landlord announced his intention to sell the property that my father was living in. My wife Cassandra and I discussed my father's housing needs with him, and decided that we would like to pursue the purchase of a property that could accommodate all three of us. Cassandra and I made this decision for a number of factors. As my father nears retirement age, we would love to be close to him in order to care for him. My wife and I are also hoping to expand our family in the near future, and we would be delighted to offer our children the opportunity to grow up in a multi-generational household near their grandfather.

When we found the property listing for 511 S. Winter Ave earlier this year, we eagerly put in our bid to purchase it, since it fits this dream perfectly, with ample space for my wife, myself, and our future family in the house, and having a detached garage that could be renovated with a second-story to accommodate a dwelling for my father, while maintaining the garage underneath. We were thrilled that our bid was accepted and we could pursue that living situation for our family.

We know that, if this variance were to be granted, it would still be valid upon the future sale of the home. In such a situation, the proposed second-story dwelling would be considered an apartment, and that would create the undesirable opportunity for a future homeowner to rent out the ADU to a tenant. We have fallen in love with the house, the property, and the neighborhood. We have very good friends from our church right around the corner. As well, truth be told, searching for a home in the current market is not an experience we would like to endure ever again. It is our intention to make this our "forever" home, and we have no intentions of selling the property and moving during our lifetimes.

We have already seen several examples of such ADUs in our own Bakersfield neighborhood in West Goshen—a homeowner who resides on the corner of Berkey Ave. and Dewey St. has such a structure above a garage, and there are other examples within the vicinity of our home.

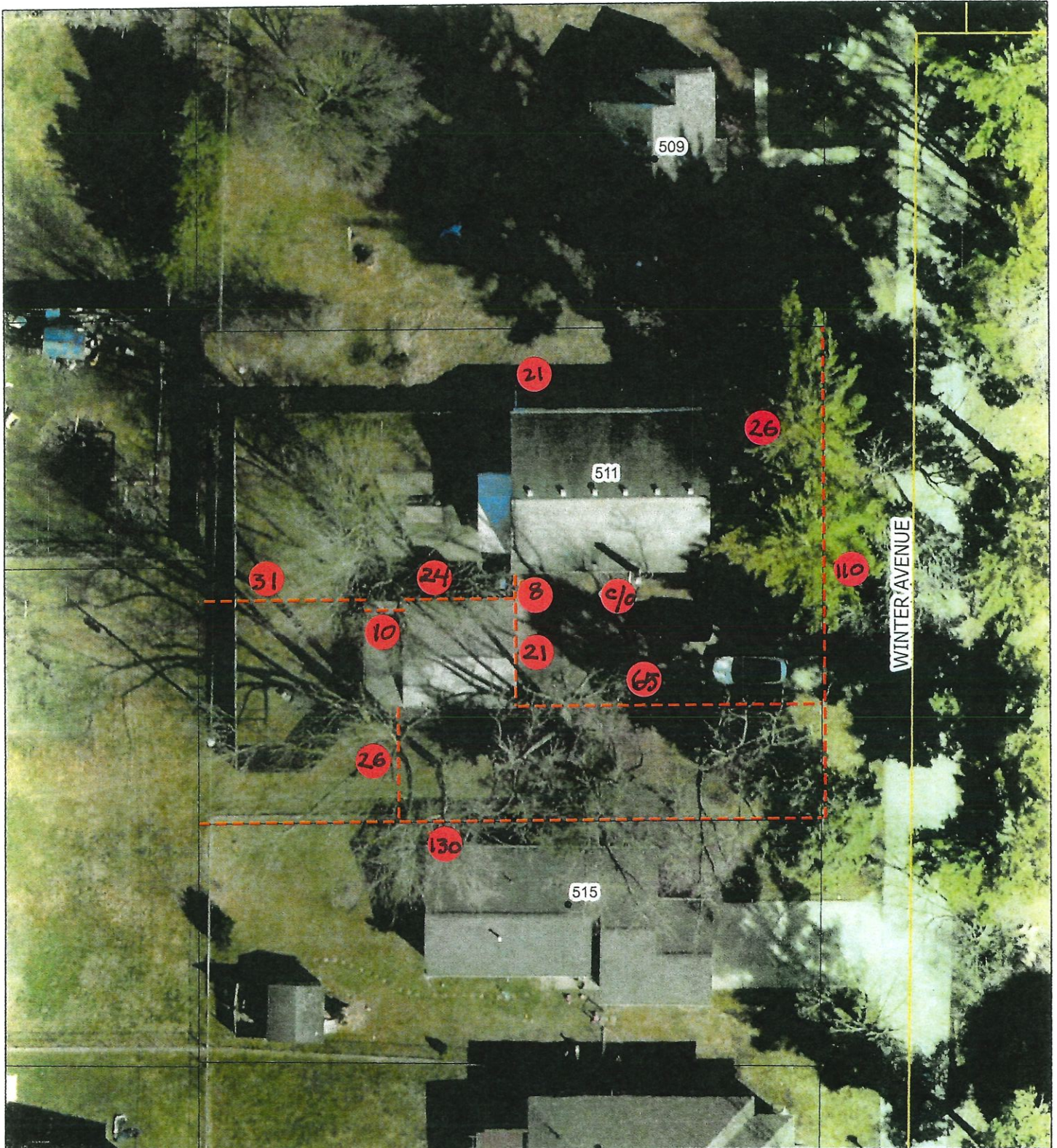
My wife and I have already broached the subject of the renovated two-story structure with one of our neighbors, since it would require the removal of a pair of trees that border on our neighbor's property. She was supportive of the project, as one of the trees lost a limb some years ago. The downed limb fell through her bedroom during a storm. Needless to say, she would likely be pleased to see the tree removed.

Thank you for your consideration.

Respectfully,



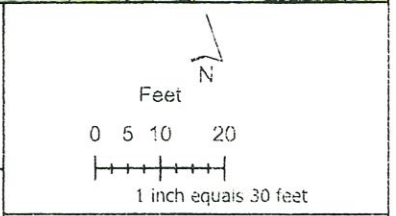
Christopher Beachy



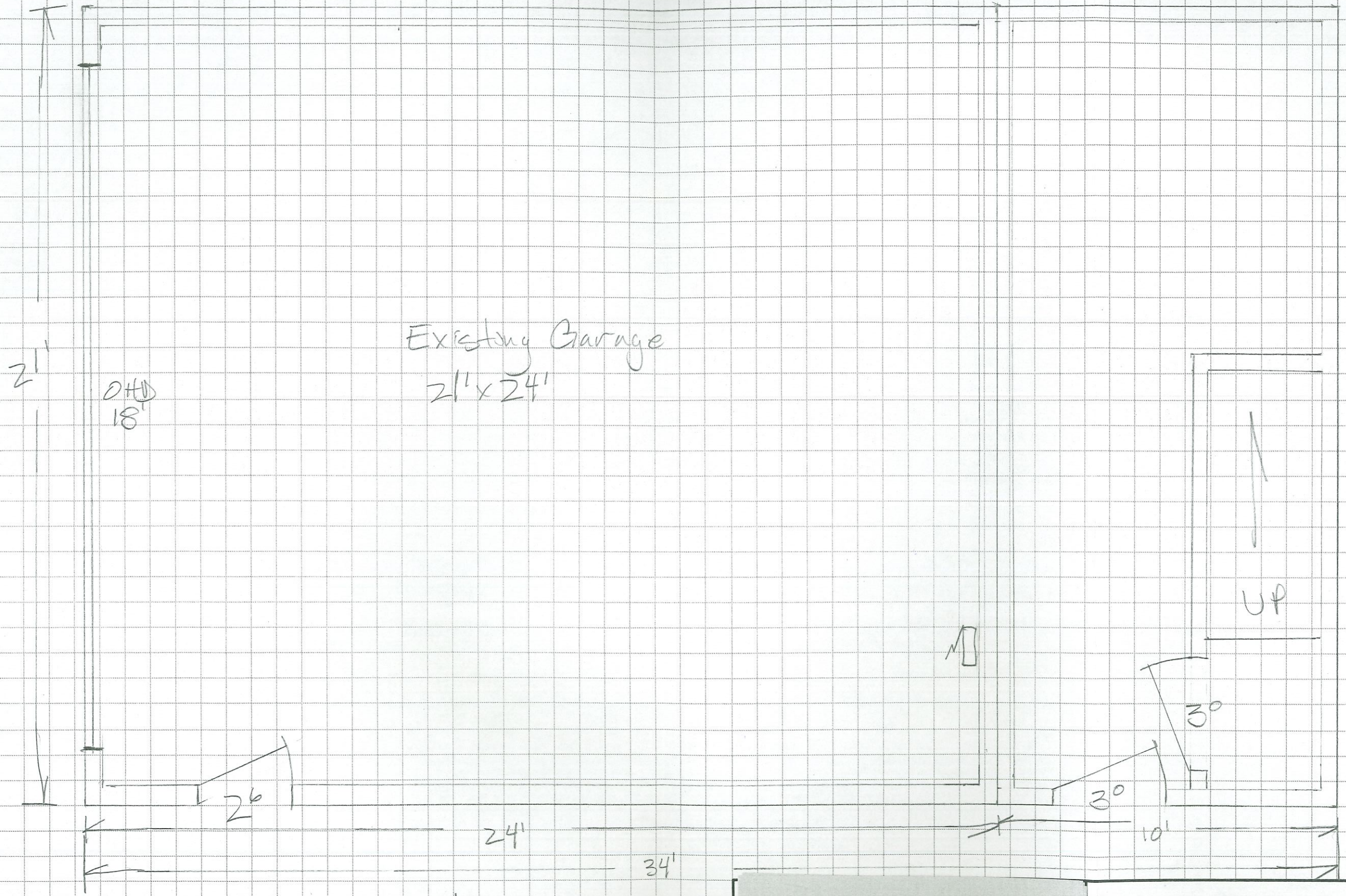
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511 Winter Avenue

2021 Aerial
Printed on 4/21/2023



The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-6626



Existing Garage
21' x 24'

21'
DHD
18'

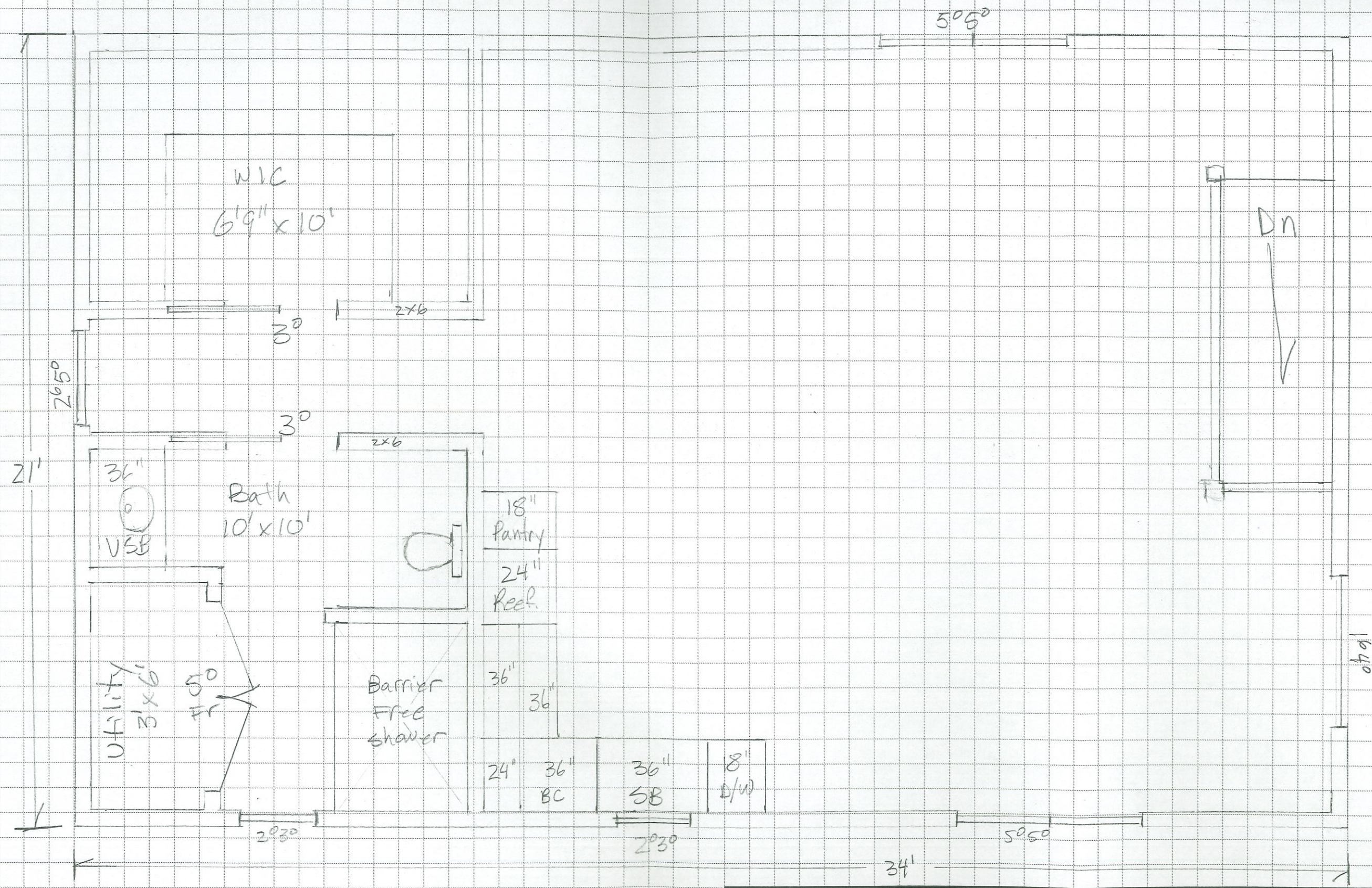
26'
24'
34'

30'
10'

UP

Ground Floor
N
↓

JOB _____
 SHEET NO. _____ OF _____
 CALCULATED BY _____ DATE _____
 CHECKED BY _____ DATE _____
 SCALE 3/8" = 1"



2nd Floor

N
↓

W J. A. WAGNER CONSTRUCTION, INC.
 22805 G. R. 14
 Elkhart, Indiana 46516
 (219) 295-3751

JOB _____

SHEET NO. _____ OF _____

CALCULATED BY _____ DATE _____

CHECKED BY _____ DATE _____

SCALE 3/8" = 1"

LOCATION: 606 S 7th Street
CASE NUMBER: 23-15DV

DATE: June 27, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: James B. Shenk & Rachel A. Shenk (owners)

REQUEST: The applicants request developmental variances to allow a front building setback of 5' from Cottage Avenue where 25' is required and a side (south) building setback of 1' where 5' is required for the construction of an approximately 440 SF detached garage

LOT SIZE: ± 5,445 SF; ± 66' of frontage (± 33' on 7th Street & 33' on Cottage Avenue); ± 165' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 46

SPECIAL INFORMATION

PUBLIC UTILITIES: City water and sewer

AREA DEVELOPMENT: Residential, institutional

NEIGHBORHOOD: Historic Southside

THOROUGHFARES: 7th Street, Cottage Avenue

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District B.1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet

C.3 Accessory buildings on an interior lot shall not be located closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home in the Historic Southside Neighborhood located on a narrow through-lot with frontage on 7th Street and Cottage Avenue. Surrounding development is predominantly single family, with Chandler school a close distance to the north along Cottage Avenue. Improvements on the property include a home with an approximate footprint of 1,447 SF and an approximately 180 SF single-stall garage with access from Cottage Avenue.

The petitioners are proposing to demolish the existing garage and build a new approximately 440 SF garage that includes a single stall, workshop area, and covered porch. The garage will have a 5' front building setback from Cottage Avenue where a minimum of 25' is required, and a side (south) building setback of 1' where 5' is required, so developmental variances are needed.

Staff recommends approval of the request based on the following:

- The frontage along Cottage Avenue functions as a rear lot line. The home on the subject property faces 7th Street, as do the majority of through lots along 7th Street and Cottage Avenue.
- The minimum rear building setback for an accessory structure such as a detached garage is 5' in the R-1 District.
- The BZA granted approvals of variances for 5' front building setbacks along Cottage Avenue for detached garages at 620 S 7th Street (October 2020) and 905 S 8th Street (January 2021)
- The proposed side south setback of 1' is less than ideal, particularly because the proposed side (north) setback is 8', where 5' is required. Nevertheless, there is a utility pole in the right of way approximately half way between the north and south property lines, so the proposed 12' wide driving aisle will need to be located further south. Given that the proposed encroachment will match the setback of the existing detached garage, it is reasonable.

FINDINGS OF FACT

Staff recommends **approval** of developmental variances to allow a front building setback of 5' from Cottage Avenue where 25' is required and a side (south) building setback of 1' where 5' is required for the construction of an approximately 440 SF detached garage, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed building will be located in the same location as the existing garage, which does not appear to have been detrimental to safety. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The frontage along Cottage Avenue functions as a rear lot line. The home on the subject property faces 7th Street, as do the majority through lots along 7th Street and Cottage Avenue. The minimum rear building setback for an accessory structure such as a detached garage is 5' in the R-1 District. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** At 33' in width and with frontage along two streets, the subject property has little to no space to add a detached garage that meets the current Zoning Ordinance requirements. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. The new detached garage shall be accessed by a hard surface driveway.
5. A right of way permit for the drive approach is required.
6. A building permit is required.



Looking east from 7th Street at front of home



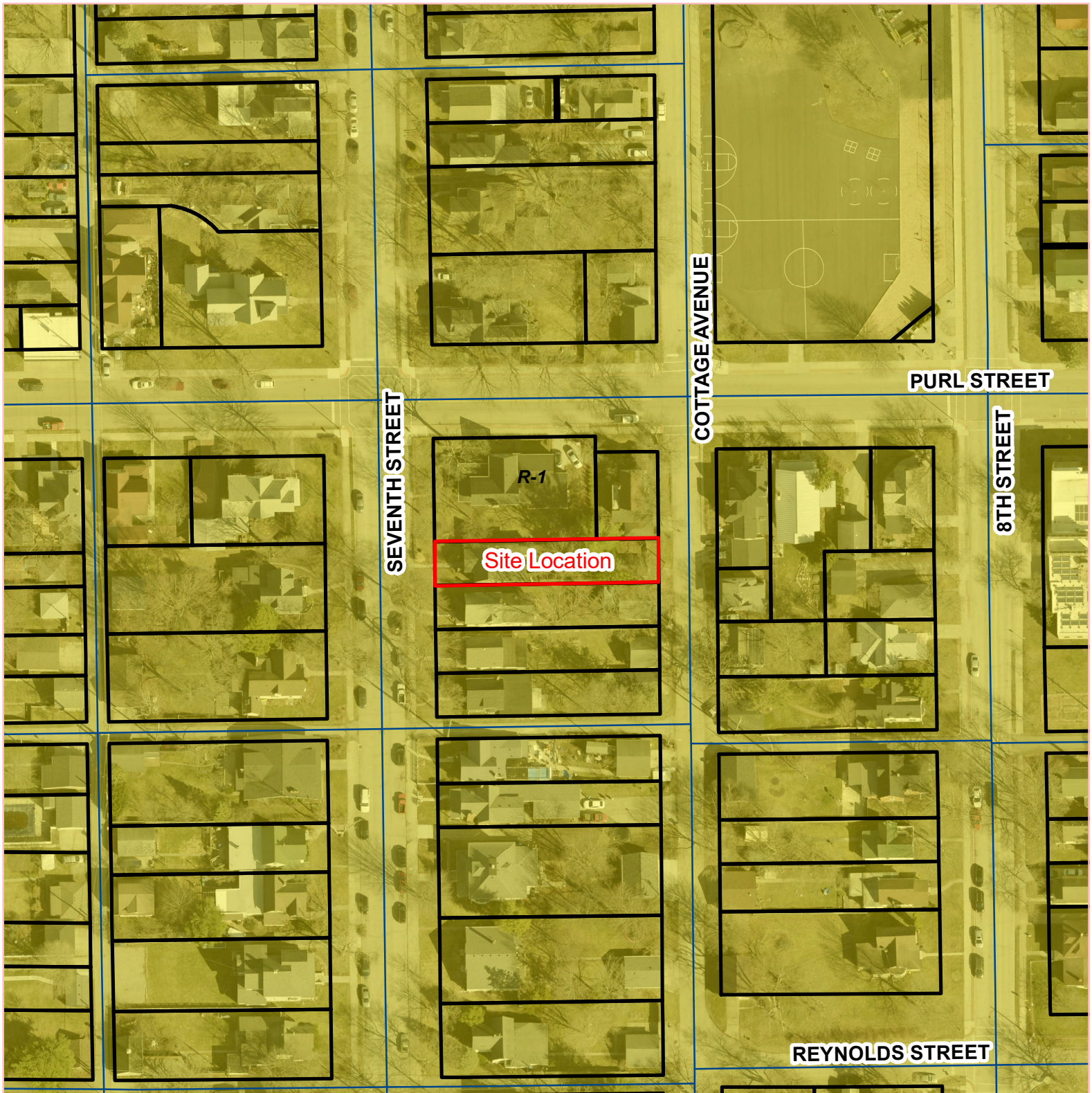
Looking west from Cottage Avenue at proposed location of garage



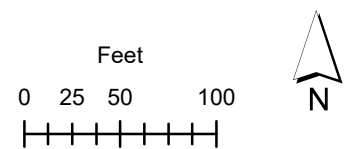
Looking east along south property line



Looking west along south property line



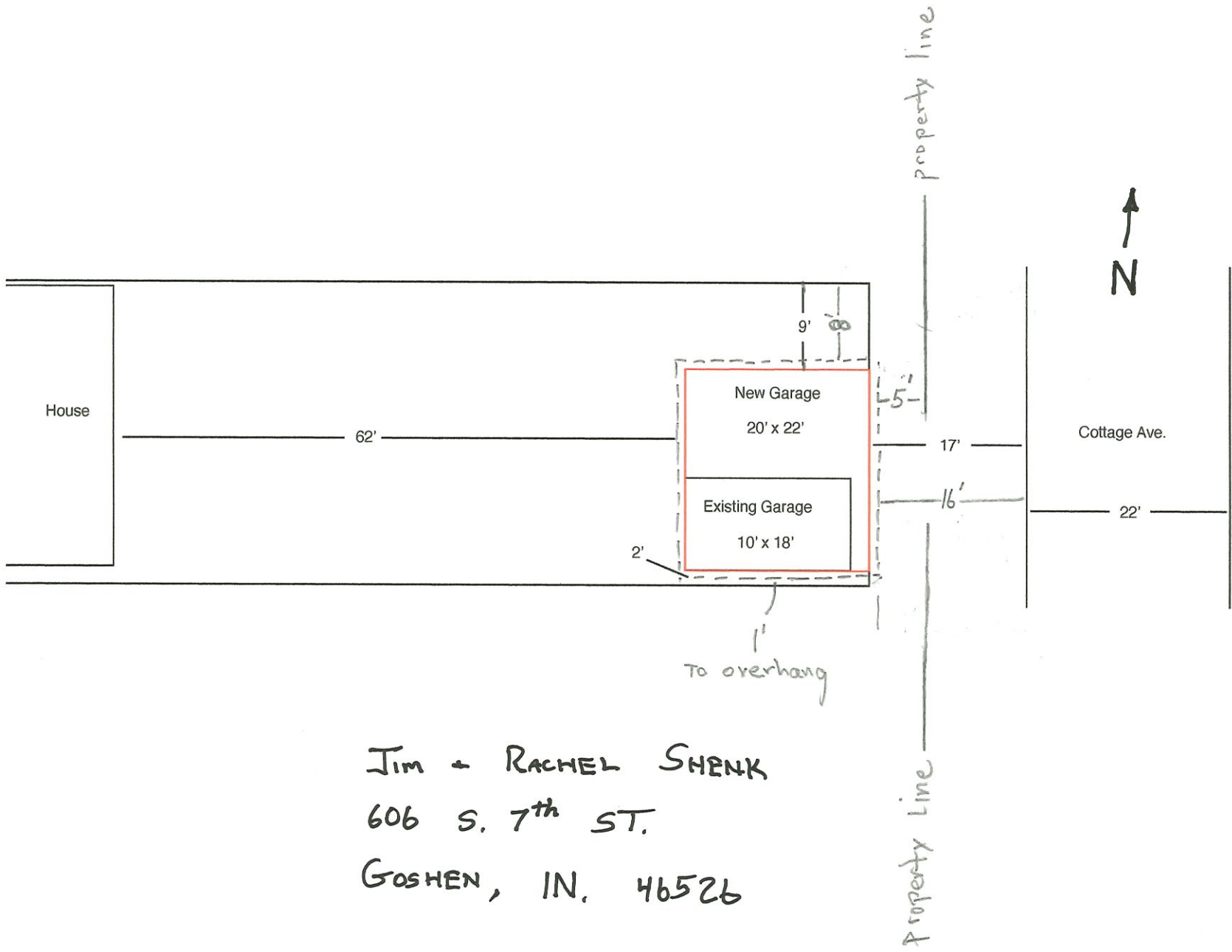
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606 S 7th Street

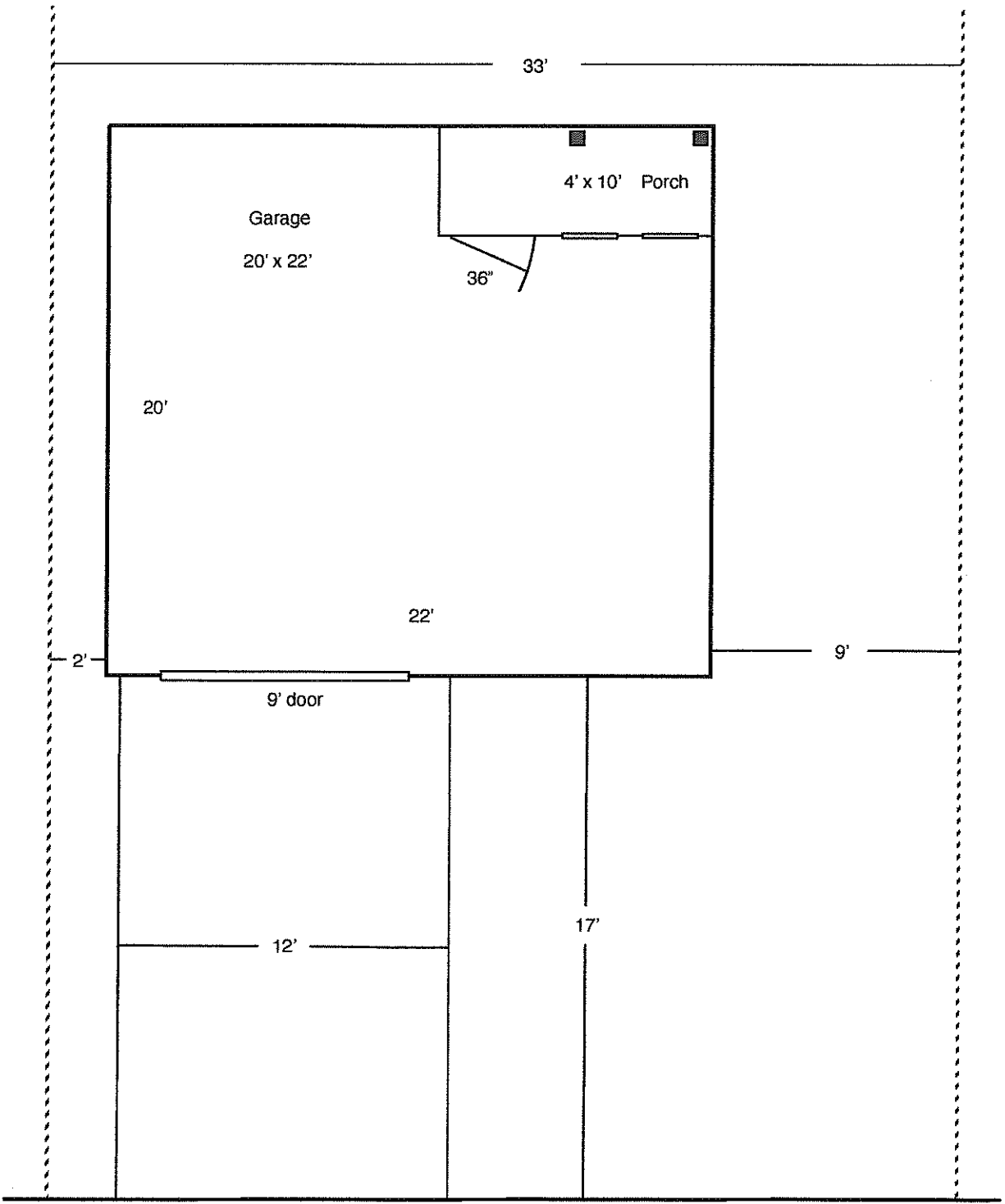
2021 Aerial
Printed June 8, 2023

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



Jim + RACHEL SHENK
 606 S. 7th ST.
 GOSHEN, IN. 46526

JIM + RACHEL SHENK
606 S. 7th ST.
GOSHEN, IN. 46526



Cottage Avenue



LOCATION: 1001 & 1003 N Main Street
CASE NUMBER: 23-05UV

DATE: June 27, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Michael Thompson (owner)

REQUEST: The applicant requests a use variance to allow an event center (auditorium) where auditoriums are a permitted use in the Commercial B-2 & B-3 districts and Industrial M-1 & M-2 districts

LOT SIZE: ± 4.7 acres; ± 230' of frontage; depth varies

APPLICABLE ZONING: Commercial B-1

NOTICES SENT: 41

SPECIAL INFORMATION

PUBLIC UTILITIES: Connected to City water & sewer

AREA DEVELOPMENT: Commercial, residential

NEIGHBORHOOD: North Goshen

THOROUGHFARES: Main Street

TOPOGRAPHY: Inclines northward from south; rear of property is rugged and heavily vegetated

VARIANCE OF USE STANDARDS

- ◇ Goshen Zoning Ordinance, *Appendix E*, Table of Permitted Uses
“Auditoriums (when not part of a school)” are listed as permitted uses in the Commercial B-2 & B-3 districts and Industrial M-1 & M-2 districts

ADJACENT PROPERTY OWNERS’ SUPPORT, OPPOSITION, AND INQUIRIES

Mary Jo Pratt, owner of 926 N Main Street, called the Planning office and stated opposition to the request because she feels the space is not large enough for an event center.

ANALYSIS

The subject property is a three-parcel zoning lot approximately 4.7 acres in size located in North Goshen along Main Street. The property is zoned B-1, and is surrounded by a mix of residential and commercial uses. Improvements to the property include an approximately 5,292 SF one-story building and a parking and driving aisle with two access drives from Main Street. A large portion of the west side of the property is an undeveloped, heavily vegetated parcel.

The building is two units, with a carry out and delivery pizzeria in the north end in operation since variance approval in 2004. Planning records on use of the south unit are limited, but it appears a bar & nightclub was operating in the unit in 2006 for a limited period of time.

The petitioner is now proposing to make the south unit of the building an event center. Minimal improvements will need to be made to the interior and exterior of the building, as it already includes a service area and open space for seating. Floor plans indicate the maximum seating for the venue will be 130. Event centers, which are classified as auditoriums, are not permitted in the B-1 District, which is intended for neighborhood commercial uses, so approval of a use variance is needed.

Staff recommends approval of the request. At close to 5-acres in size, and with a building over 5,000 SF in area, the property appears to have space for a small event center use that may attract customers from outside the

neighborhood. Its location on a State road will allow vehicles to access the site without having to pass through a low-traffic residential street. The event center use will be consistent with previous business uses of the property, and does not appear likely to be harmful to surrounding properties, one of which is a Salvation Army lodge.

The petitioner has consulted with staff in the Engineering, Building, and Fire departments and has satisfied or is in the process of satisfying their requirements. Likewise, the Indiana Department of Transportation (INDOT) has confirmed that the change of use is acceptable.

The petitioner has submitted a parking plan showing that the site can provide 54 parking spaces where only 28 are needed for the pizzeria and event uses. One concern is that the unstriped parking lot will cause haphazard parking, so as part of this approval, Staff recommends striping the parking lot as a condition of the approval. A vehicle with expired plates illegally parked on the patio area in the front yard setback was present during an inspection of the site for this report. Approval should be conditioned that the vehicle is moved to a lawful parking area with updated license plates.

FINDINGS OF FACT

Staff recommends **approval** of a use variance to allow an event center (auditorium) where auditoriums are a permitted use in the Commercial B-2 & B-3 districts and Industrial M-1 & M-2 districts, based on the following:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** The proposed event center will use an existing portion of the building that was formerly a bar and nightclub, which is a similar use. Building and Fire Code will need to be met before the event center can operate. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** While the property is zoned B-1 (neighborhood commercial), it is located on a State road and surrounded not only by residential properties but also by commercial properties, including B-3 use and zoning to the north. *The standard is confirmed.*
3. **The need for the variance arises from a condition peculiar to the subject property.** With ample area for parking and ample space for seating, and with access from a State road, the subject property is ideal for an event center use that may not be appropriate on other properties zoned for neighborhood commercial uses. *The standard is confirmed.*
4. **Strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the subject property.** There is not enough information available to determine if denying the event center use will create an unnecessary hardship. B-1 uses are permitted on the property. *The standard is not confirmed.*
5. **The approval does not interfere substantially with the Comprehensive Plan.** With the location of the proposed event center on an arterial State road and outside the central business district, approval will ensure a smooth transition between different land uses (Land Use 3.1). *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. Approval by the Building and Fire Departments is required.
5. The parking and driving area shall be permanently striped based on the parking layout “1001 & 1003 N Main Street Parking Plan—June 7, 2023” within thirty (30) days of this approval.
6. The vehicle with expired plates illegally parked on the patio area in the front yard setback shall be moved to a lawful parking space and registered with current license plates within thirty (30) days of this approval.



Looking west across Main Street



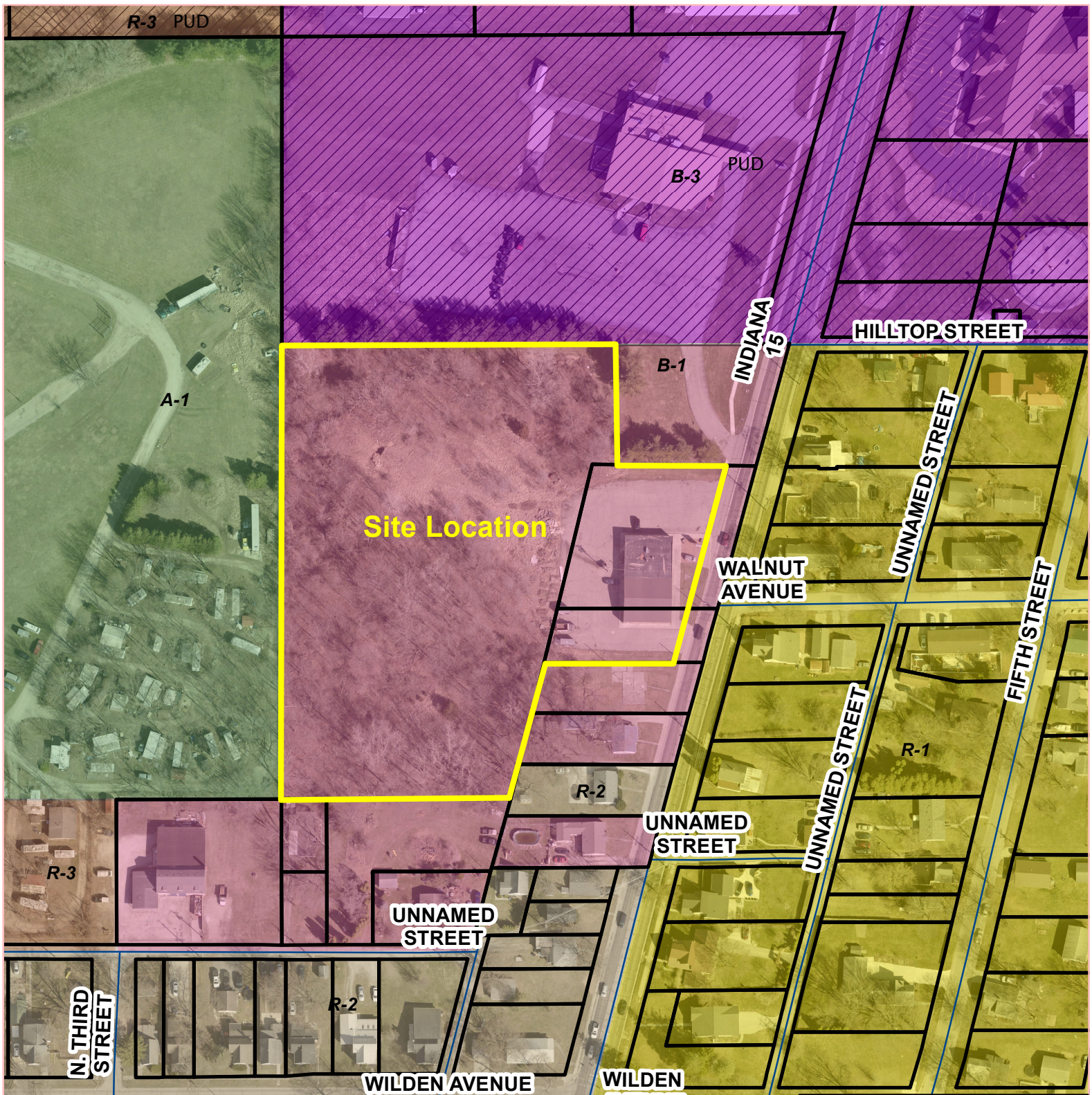
Looking south



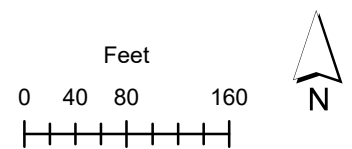
Looking north



Interior photo from bar/service area



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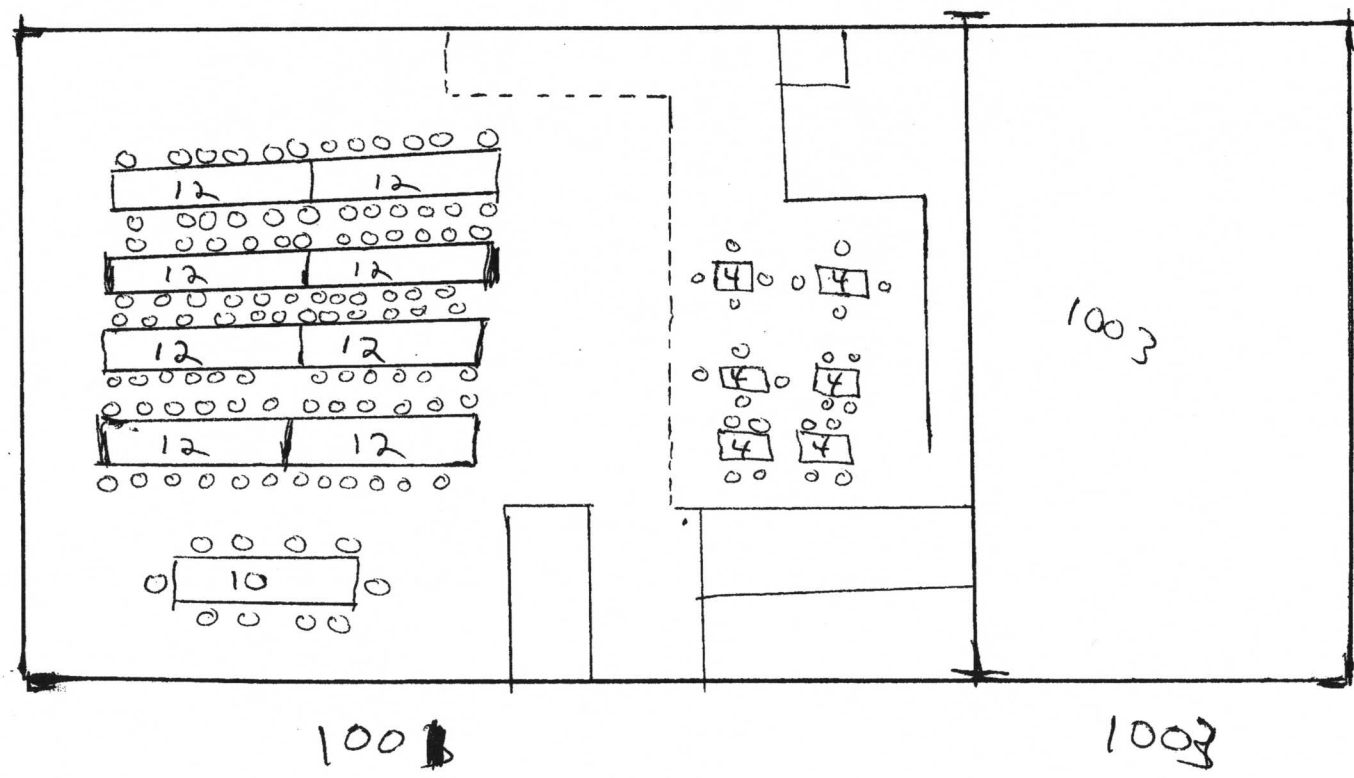


1001-1003 N Main Street

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Printed June 8, 2023

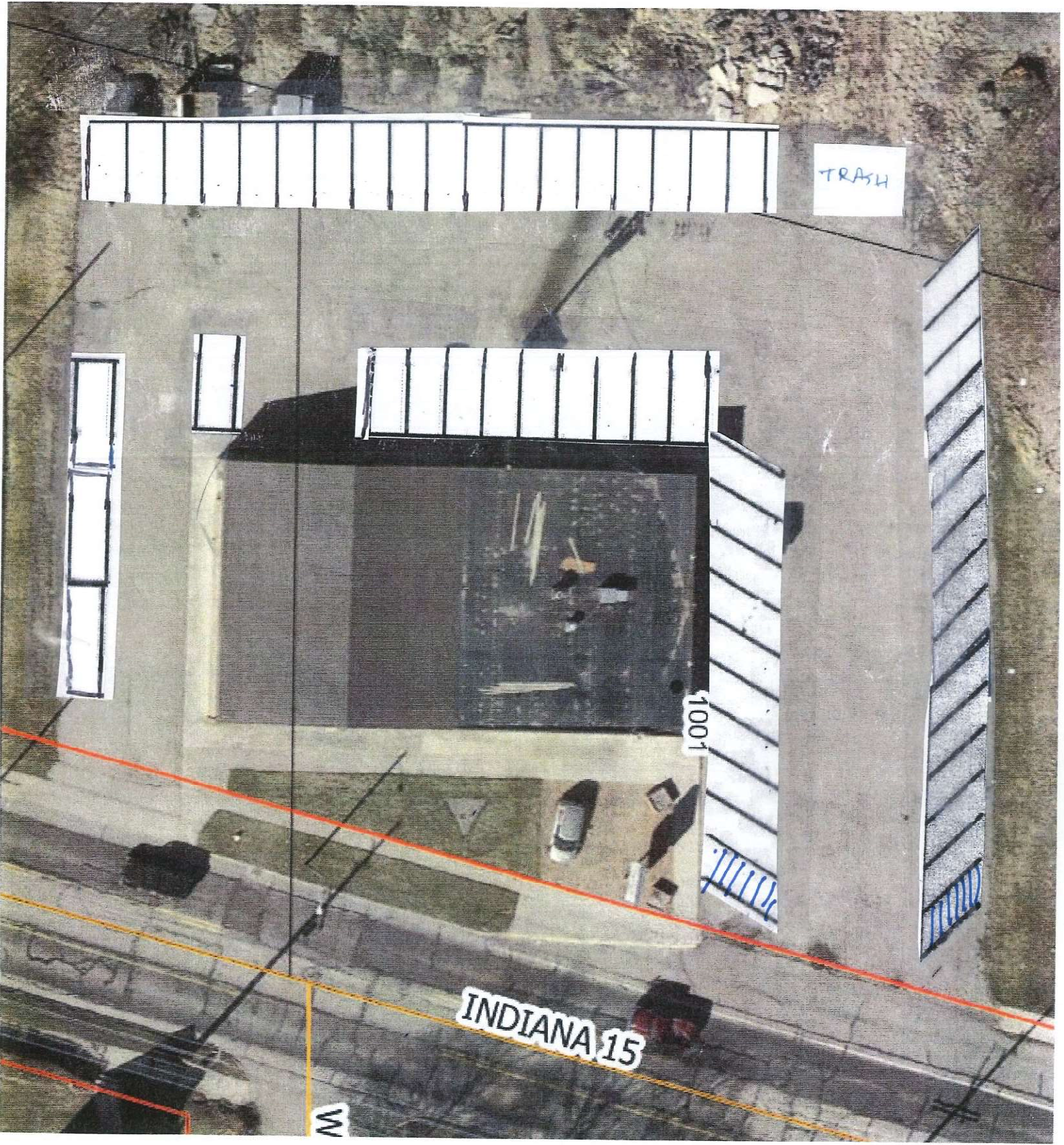
The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

EVENT SEATING
130 SEATS



- 8-12 FT TABLES - FOLDING
- 1 - 8 FT TABLES - FOLDING
- 6 - TABLES - RAISED AREA

54 PARKING SPACES



LOCATION: 819 Lincolnway East
CASE NUMBER: 23-16DV

DATE: June 27, 2023
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: Loupa's Enterprise, LLC (owner); Robert Keim & Turkey Creek Construction (agents)

REQUEST: The applicants request a developmental variance for a side (north) building setback of 5' where 8' is required for an approximately 1,088 Sf second story expansion

LOT SIZE: ± 16,500 SF; ± 100' of frontage; ± 165' of depth

APPLICABLE ZONING: Residential R-1

NOTICES SENT: 32

SPECIAL INFORMATION

PUBLIC UTILITIES: Connected to City sewer; City water available

AREA DEVELOPMENT: Residential, commercial

NEIGHBORHOOD: None

THOROUGHFARES: Lincolnway East (U.S. 33)

TOPOGRAPHY: Level

VARIANCE OF DEVELOPMENTAL STANDARDS

- ◇ Goshen Zoning Ordinance, *Section 4140.3*, Area, Width, and Yard Regulations of the R-1 District C.2. Interior yards shall have two side yards; each side yard shall have a width of not less than eight feet.

ADJACENT PROPERTY OWNERS' SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report's delivery and the public hearing.

ANALYSIS

The subject property is a single family home located on Lincolnway East, a short distance south of Goshen High School and north of Plymouth Avenue. The property is zoned R-1, and is surrounded by residential homes to the north and west and commercial development to the south and east. The home is under the same ownership as the property to the south, a former bar and restaurant, and a large concrete parking area for the bar was installed on the property following variance approval in March 2006.

The home on the property is one-story with an approximate footprint of 1,088 SF and an attached two-stall garage approximately 572 SF in size. A small area of the attic was converted to living space, and petitioners are now proposing to expand this area, building the walls upward and adding a new roof to create a second story. The proposed second story will have two bedrooms, one bathroom, and a common area. The side building setback on the north side of the home is currently 5' where 8' is required. As the building is expanded upward, the non-conforming setback will be expanded, requiring a developmental variance.

Staff recommends approval of the request. It would be impractical to add a second story addition that does not match the footprint of the first story in order to meet the required 8' setback. The proposed expansion of the home is reasonable residential development given the small to moderate size of the first floor living space. The proposed north side building setback will match the current building, and there is no indication that this has been a problem in the past, so the expansion is unlikely to be detrimental to safety and is unlikely to be harmful to the

use and value of the property to the north. GIS measurements show a distance of approximately 19' between the overhangs of the home on the subject property and the home to the north, which is ample distance to maintain safety.

Because the home is not currently connected to City water, it will need to connect to water as part of this project.

FINDINGS OF FACT

Staff recommends **approval** of a developmental variance for a side (north) building setback of 5' where 8' is required for an approximately 1,088 Sf second story expansion, based on the following:

1. **The approval will not be injurious to the public health, safety, morals and general welfare of the community.** The proposed north side building setback will match the current building, and there is no indication that this has been a problem in the past, so the proposed development is unlikely to be detrimental to safety. GIS measurements show a distance of approximately 19' between the overhangs of the home on the subject property and the home to the north, which is ample distance to maintain safety. *The standard is confirmed.*
2. **The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The proposed north side building setback will match the current building, and there is no indication that this has been a problem in the past, so the proposed development is unlikely to be harmful to the use and value of the property to the north. *The standard is confirmed.*
3. **Strict application to the terms of the Zoning Ordinance will result in practical difficulties in the use of the subject property.** The proposed second story expansion to the home is reasonable residential development that will match the existing building. It would be impractical to add a second story addition that does not match the footprint of the first story in order to meet the required 8' setback. *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.
4. The property shall be connected to City water as part of the internal remodel and second story expansion.
5. An easement for the parking and stormwater retention areas on the subject property benefiting the adjacent commercial property shall be recorded and provided to the Planning office before the certificate of occupancy is issued.



Looking southwest



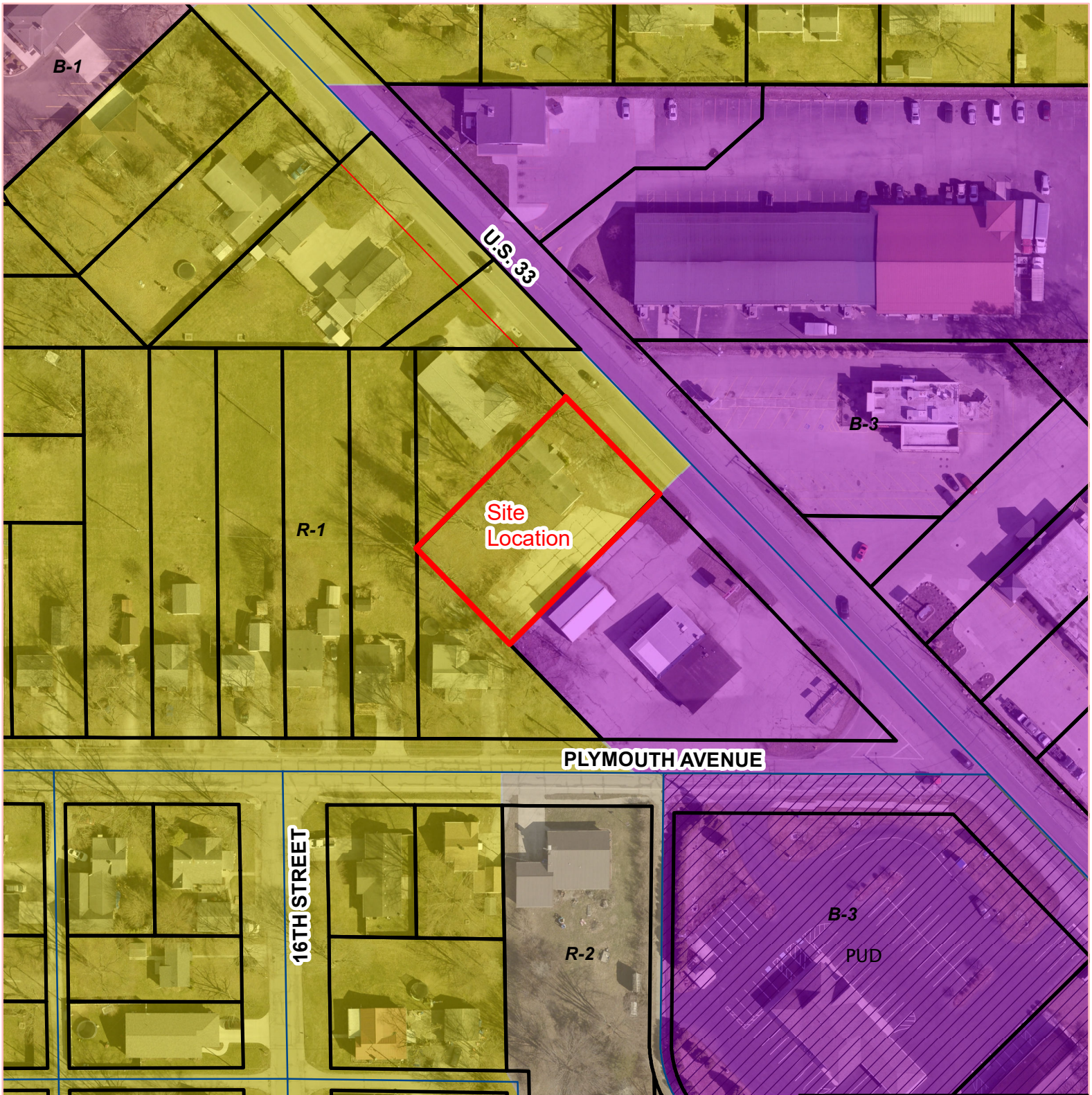
Looking northeast



Looking southwest



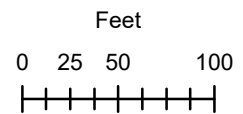
Looking south



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819 Lincolnway East

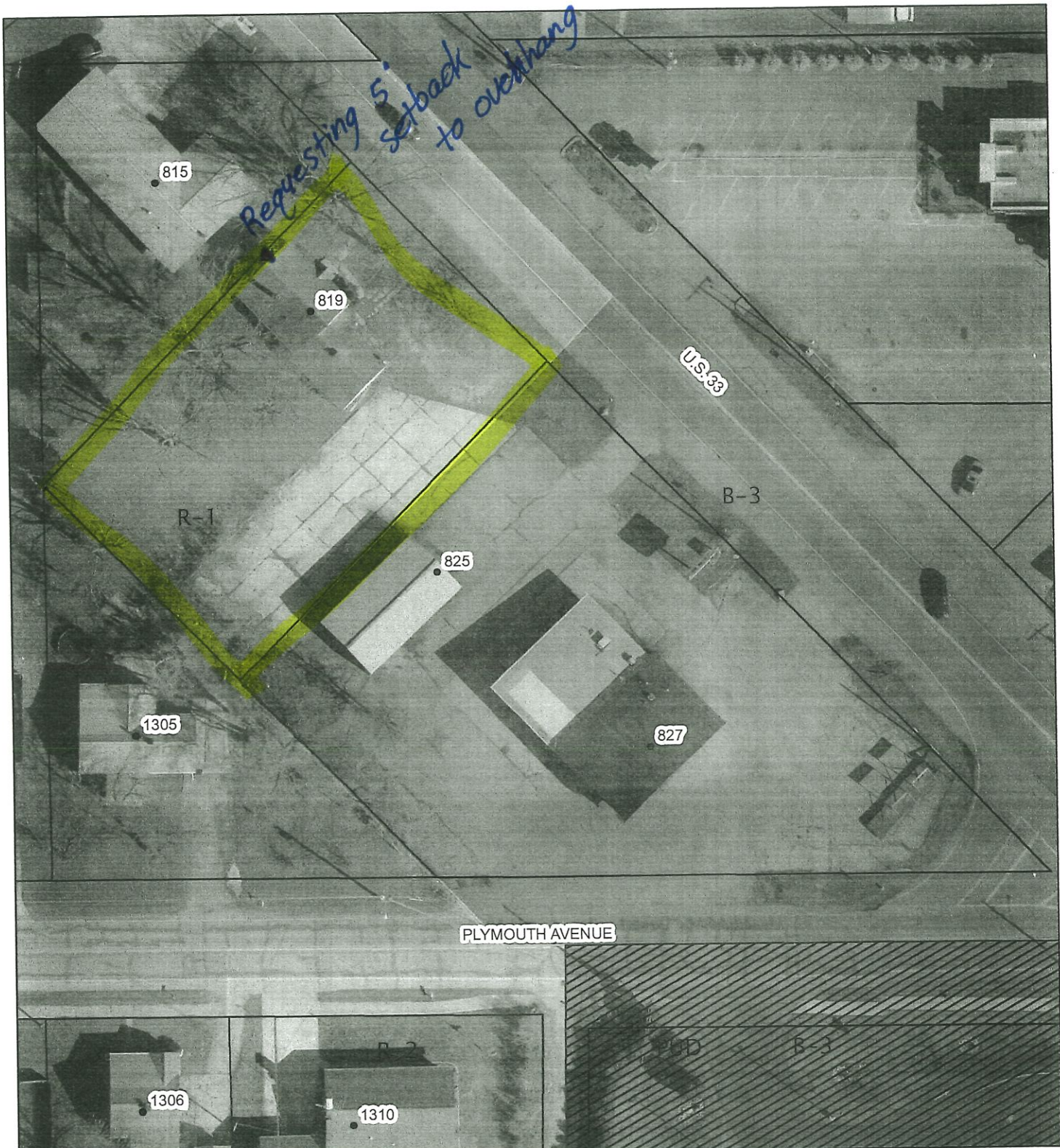
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1 inch = 100 feet

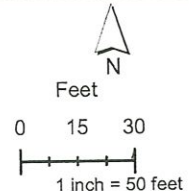
The City of Goshen
Department of
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204 East Jefferson Street, Goshen, Indiana 46528
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Requesting 5' setback to overhang

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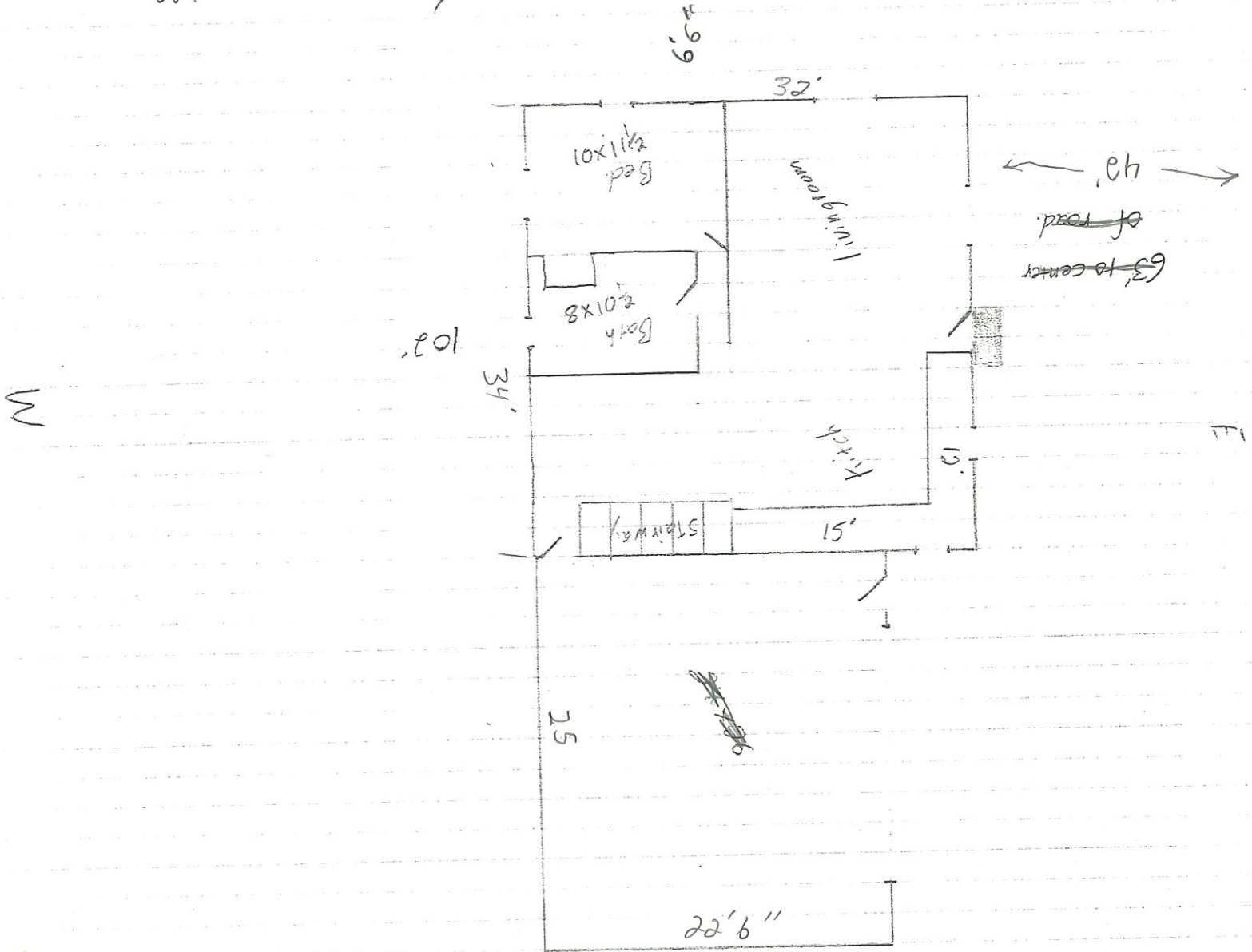
819-825-827 Lincolnway East

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Printed October 11, 2021

The City of Goshen
Department of
Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626

Frank Laguer 574-238-6211 N
 829 E Lincolnway Goshen



Contractor
 Turkey Creek Const
 Sub con. elect.
 Express controls
 plamb.
 Alco Plumbing

1-bedroom eliminated downstairs
 open concept dining-kitch-Livin
 garage gets insul. lined

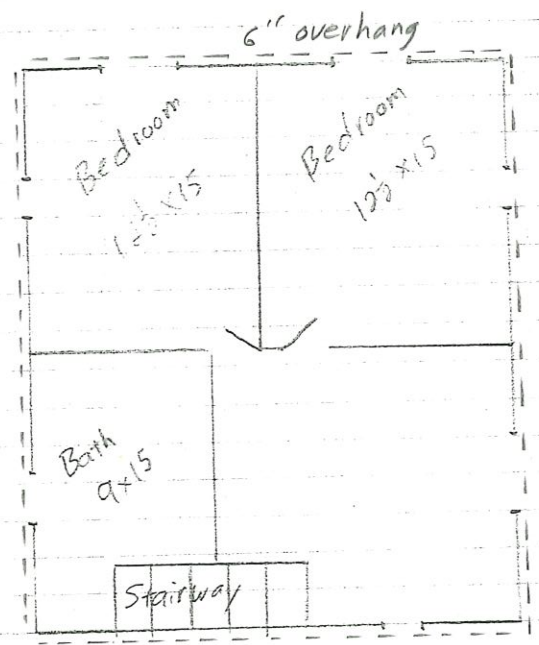
est. total approx \$72,000.00

S

N

2nd Story

W



TTT

S

- adding full 2 story 8' sidewalls
- complete new roof/trusses
- adding 2nd Bath
- adding 2nd bedroom upstairs.