

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Tuesday, July 6, 2021
4:00 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN
www.tinyurl.com/sbbza

MEMBERS PRESENT:

Dan Brewer
Mark Burrell
Kyle Copelin
Kaine Kanczuzewski
Kathy Schuth

ALSO PRESENT:

Angela Smith
Joseph Molnar
Rachel Boyles

PUBLIC HEARINGS:

- 1. The petition of VICTOR P HUNT seeking the following variance(s): 1) From the 3' maximum privacy fence height in an established corner yard to 6', property located at 3806 BELLE VISTA ST. Zoned U1 Urban Neighborhood 1. (Audio Position: 19:05)**

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is out of character for the area and not consistent with the intent of the ordinance. If approved, making it subject to a 15' setback would be appropriate since that would be the setback for a home on the adjacent lot. This slight variance would allow for expanding the portion of the yard behind a privacy fence while not significantly negatively affecting the pedestrian experience.

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

PETITIONER

Victor Hunt, 3806 Belle Vista South Bend, IN 46619, served as the petitioner.

INTERESTED PARTIES

Eugene Williams, 753 S Illinois St. South Bend, IN 46619, sent a letter of opposition on this petition.

PUBLIC COMMENT

There was no one from the public to speak.

After careful consideration, the following action was taken:

Upon a motion by Dan Brewer, being seconded by Kyle Copelin and unanimously carried, a petition by VICTOR P HUNT seeking the following variances: 1) From the 3' maximum

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fence height in an established corner yard to 6' was denied as presented, and will issue written Findings of Fact.

Dan Brewer - Yes
Kyle Copelin - Yes
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

- 2. The petition of RICARDO AND RITA HERRERA seeking the following variance(s): 1) From the 3' maximum fence height in an established corner yard to 6', property located at 4316 JADE CROSSING DR. Zoned S1 Suburban Neighborhood 1. (Audio Position: 40:22)**

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is not consistent with the intent of the ordinance. If approved, making it subject to a 15' setback would be appropriate since that would be the setback for a home on the adjacent lot. This slight variance would allow for expanding the portion of the yard behind a privacy fence while not significantly negatively affecting the pedestrian experience.

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

PETITIONER

Ricardo and Rita Herrera, 4316 Jade Crossing Dr. South Bend, IN 46628, served as the petitioners.

INTERESTED PARTIES

David Guzicki, 4340 Jade Crossing Dr. South Bend, IN 46628, sent a letter in opposition to this petition.

PUBLIC COMMENT

There was no one from the public to speak.

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and carried, a petition by RICARDO AND RITA HERRERA seeking the following variances: 1) From the 3' maximum fence height in an established corner yard to 6' was denied as presented, and will issue written Findings of Fact.

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Dan Brewer - Yes
Kyle Copelin - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth - No

- 3. The petition of ZACHARY W & KAITLYN M LESH seeking the following variance(s):**
1) From the 3' maximum fence height in the established front yard to 6', property located at 1448 SUNNYMEDE AVE. Zoned U1 Urban Neighborhood 1. (Audio Position: 56:03)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is out of character for the area and not consistent with the intent of the ordinance. The fence could be moved to its permitted location while still providing a similarly sized fully fenced in location as other surrounding properties in the neighborhood.

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

PETITIONER

Zachary Lesh, 1448 Sunnymede Ave South Bend, IN 46615, served as the petitioner.

INTERESTED PARTIES

Yahya Kurama, 1516 Sunnymede Ave South Bend, IN 46615, sent a letter in opposition to this petition.

PUBLIC COMMENT

There was no one from the public to speak.

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Dan Brewer and unanimously carried, a petition by ZACHARY W & KAITLYN M LESH seeking the following variances: 1) From the 3' maximum fence height in the established front yard to 6' was denied as presented, and will issue written Findings of Fact.

Dan Brewer - Yes
Kyle Copelin - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth - Yes

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4. **The petition of CARL JR & JAYNE SUE WILLIAMS seeking the following variance(s): 1) To allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way; and 2) From the 60% minimum transparency on the front facade and 20% minimum transparency on the corner facade to the existing windows, property located at 2801 WESTERN AVE. Zoned NC Neighborhood Center.**

(Audio Position: 1:04:22)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: The variances requested are related to an existing building being located on the lot in conflict with the NC Neighborhood Center District. The South Bend Common Council has approved a Special Exception for the sale of vehicles on this property. With that Special Exception received, it is proper to assume that needed variances are reasonable considering the existing physical conditions of the site.

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

PETITIONER

Aaron Wills, 812 S. Jackson St. South Bend, IN 46619, served as the petitioner.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by CARL JR & JAYNE SUE WILLIAMS seeking the following variances: 1) To allow vehicle sales in the established front yard, corner yard, and visible from public right-of-way; and 2) From the 60% minimum transparency on the front facade and 20% minimum transparency on the corner facade to the existing windows was approved as presented, and will issue written Findings of Fact.

Dan Brewer - Yes
Kyle Copelin - Yes
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

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5. **The petition of IRISH DREAMS INC seeking the following variance(s): 1) From the maximum height of 40' and 3 stories to 61' and 5 stories, property located at 1705 SOUTH BEND AVE. Zoned U3 Urban Neighborhood 3.** *(Audio Position: 1:13:00)*

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: The unique shape and topography of the property, as well as being located along a significant corridor with a wide right-of-way, creates a hardship in developing the site in a manner consistent with the intent of the NC Neighborhood Center District. The variance requested will allow for a mixed-use urban development along a major corridor of the City.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance, subject to limiting the five story area to the south-eastern wing of the building along State Road 23.

PETITIONER

Gregory Kil, 1126 Lincoln Way E South Bend, IN 46601, & Chris Gormley, 12704 12th Ave SE Everett, WA 98208, served as the petitioners.

INTERESTED PARTIES

Ryan Pogotis, 1350 Black Oak Dr. South Bend, IN 46617, spoke in favor of this petition.

Sherry Scott, 934 S 27th St. South Bend, IN 46615, spoke on behalf of the Jamison Residential Condominium Assoc., Inc. against the petition.

Robert Simon, 1508 N Oakhill Dr. South Bend, IN 46637, spoke against this petition.

Todd Stroup, 1408 Ivy Court Unit D-5 South Bend, IN 46637, spoke against this petition.

Mike Gates, 1408 Ivy Court Unit D-2 South Bend, IN 46637, spoke against this petition.

Elizabeth Verterano, 1414 Ivy Court Unit B-5 South Bend, IN 46637, spoke against this petition.

David Witt, 1711 South Bend Avenue South Bend, IN 46637, sent a letter in favor of this petition.

8 letters of opposition were received for this petition.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Gregory Kil offered a rebuttal and requested the petition be tabled until the next meeting to talk with the neighbors.

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by IRISH DREAMS INC seeking the following variances: 1) From the maximum height of 40' and 3 stories to 61' and 5 stories was tabled as presented.

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Dan Brewer - Yes
Kyle Copelin - Yes
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – June 7, 2021

Upon a motion by Dan Brewer, being seconded by Mark Burrell and unanimously carried, the findings of fact from the June 7th, 2021 Board of Zoning Appeals meeting were approved.

2. Minutes – June 7, 2021


Upon a motion by Dan Brewer, being seconded by Kyle Copelin and unanimously carried, the corrected minutes from the June 7th, 2021 Board of Zoning Appeals were approved.

3. Other Business

Resolution for Electronic Participation during meetings was presented.


4. Adjournment – 6:22 p.m.

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board