

# SOUTH BEND BOARD OF ZONING APPEALS

## MINUTES

Monday, December 5, 2022  
4:00 p.m.

4th Floor, Council Chambers  
County-City Building, South Bend, IN  
[www.tinyurl.com/sbbza](http://www.tinyurl.com/sbbza)

MEMBERS PRESENT:  
Mark Burrell  
Kyle Copelin  
Kathy Schuth  
Caitlin Stevens

MEMBERS ABSENT:  
Kaine Kanczuzewski

ALSO PRESENT:  
Angela Smith  
Rachel Boyles  
Kate Bolze  
Jenna Throw

### PUBLIC HEARINGS:

- 1. The petition of MEMORIAL HOSPITAL seeking the following variance(s): 1) From the 150' maximum building height to 170'-7", property located at 615 MICHIGAN ST. Zoned DT Downtown.** *(Audio Position: 03:47)*

### STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Granting the variance for the additional height will allow the hospital to expand within the current footprint of the campus and properly screen rooftop equipment from adjacent buildings. The proposed development meets the intent of the Ordinance and is designed in a way to minimize impact on the surrounding neighborhood.

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

### PETITIONER

Dustin Wilson with Beacon Health System, 615 N Michigan St, South Bend, IN.

### INTERESTED PARTIES

There was no one from the public to speak.

### PUBLIC COMMENT

There was no one from the public to speak.

### ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried, a petition by MEMORIAL HOSPITAL seeking the following variances: 1) From the 150' maximum building height to 170'-7" was approved as presented, and will issue written Findings of Fact.

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Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

2. **The petition of JAY D PRIMMER AND MICHAEL L WILLIAMS seeking the following variance(s): 1) From the 25' minimum front setback along Hawbaker to 1.6' for the carport and 23.6' for the detached garage with ADU; 2) From a maximum of 1 detached accessory structure to 2; and 3) From the maximum 4 car capacity for all garages and carports to 7, property located at 636 IRELAND RD. Zoned S1 Suburban Neighborhood 1.** *(Audio Position: 09:50)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Granting the variance to allow the addition of an ancillary dwelling unit attached to the garage fronting Hawbaker is consistent with the Ordinance. The lot could potentially be subdivided in the future to form two home lots. The carport, however, is out of character for the area and does not meet the criteria for granting a variance.

Staff Recommendation: Based on the information provided prior to the public hearing, the Staff recommends the Board approve variance #1 for the ancillary dwelling unit only and deny the setback for the carport; deny variance #2 as presented; and approve Variance #3 subject to a maximum 6 car capacity in the current configuration shown on the site plan, not including the carport. All variances should be subject to obtaining proper permits, inspections, and completion of the ADU application.

PETITIONER

Terry Lang with Lang Feeney - Wightman Team, 715 S Michigan St, South Bend, IN.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by JAY D PRIMMER AND MICHAEL L WILLIAMS seeking the following variances: 1) From the 25' minimum front setback along Hawbaker to 1.6' for the carport and 23.6' for the detached garage with ADU was APPROVED for the

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ancillary dwelling unity only and DENIED for the carport as presented; 2) From a maximum of 1 detached accessory structure to 2 was DENIED as presented; and 3) From the maximum 4 car capacity for all garages and carports to 7 was APPROVED as presented, and will issue written Findings of Fact.

- Caitlin Stevens - Yes
- Kyle Copelin - Yes
- Kaine Kanczuzewski - Absent
- Mark Burrell - Yes
- Kathy Schuth – Yes

- 3. The petition of JESSICA T STONE seeking the following variance(s): 1) From the 3' maximum fence height in the established corner yard to 6', property located at 1437 EWING AVE. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 24:34)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

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. The establishment of a privacy fence in close proximity to the sidewalk negatively impacts the general welfare of the community by adversely impacting the pedestrian experience. A code compliant fence could provide the security and privacy desired by the applicant. The intent of the Ordinance is to reduce non-conforming items over time. Granting the variance will legalize the condition indefinitely.

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

PETITIONER

Doug Matthys, 27530 Harrison Rd, South Bend, IN and Jessica Stone, 5030 S Hills Pt, Lecanto, FL 34461.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Kyle Copelin and unanimously carried, a petition by JESSICA T STONE seeking the following variances: 1) From the 3' maximum fence height in the established corner yard to 6' was approved as presented,

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subject to building the 6' privacy fence with an 8' side/corner yard setback instead of on the property line, and will issue written Findings of Fact.

- Caitlin Stevens - Yes
- Kyle Copelin - Yes
- Kaine Kanczuzewski - Absent
- Mark Burrell - Yes
- Kathy Schuth – Yes

4. **The petition of ERNEST J NAGY REVOCABLE TRUST seeking the following variance(s): 1) to allow a drive-through facility in the established corner yard; and 2) from the required 10' bailout lane for a drive-through to none, property located at 2048 Ireland Road. Zoned C Commercial.** *(Audio Position: 48:29)*

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by ERNEST J NAGY REVOCABLE TRUST seeking the following variances: 1) to allow a drive-through facility in the established corner yard; and 2) from the required 10' bailout lane for a drive-through to none was withdrawn as presented.

- Caitlin Stevens - Yes
- Kyle Copelin - Yes
- Kaine Kanczuzewski - Absent
- Mark Burrell - Yes
- Kathy Schuth – Yes

5. **The petition of 806 SAMPLE SOUTH BEND LLC seeking the following variance(s): 1) From the 10' minimum rear setback to 0' for pavement and 1' for the dumpster enclosure. ; and 2) From the 15' minimum front setback to 10' for pavement, property located at 806 SAMPLE ST. Zoned I Industrial.** *(Audio Position: 48:44)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The surrounding area is largely zoned I Industrial with a variety of industrial uses throughout. The pavement is already existing and the accessory structure will be located roughly where the current building is located. The site has limited access due to the 3 frontages and location of the intersection. To maintain traffic safety standards and safe maneuverability, the pavement will need to extend into the setback.

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

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PETITIONER

Deborah Hughes, Surveying and Mapping, 3220 S View Dr, Elkhart, IN

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

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 806 SAMPLE SOUTH BEND LLC seeking the following variances: 1) From the 10' minimum rear setback to 0' for pavement and 1' for the dumpster enclosure. ; and 2) From the 15' minimum front setback to 10' for pavement was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth - Yes

- 6. The petition of POUYA PROPERTIES LLC seeking the following variance(s): 1) to allow new street access along Lincolnway West where an alley is available; 2) To allow the continued use of the existing street front access along Williams Street; 3) From the 5' minimum side setback for parking to 1.5 along the east property line; 4) From the required 5' minimum side setback for parking to 3' along the north property line; 5) From the 3 required bicycle parking spaces to none; 6) From the 15' minimum drive aisle width for one-way parking to 12'; and 7) From the 24' minimum drive aisle width for two-way parking to 22', property located at 339, 341, 343, and 345 LINCOLNWAY WEST and 306 WILLIAM ST. Zoned NC Neighborhood Center. (Audio Position: 55:51)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The extent of the variances needed illustrate that the property is simply not big enough to be used in the manner desired. The proposed curb cut location would create potential traffic safety concerns, because it conflicts with a designated turn lane on Lincoln Way. Alternative layouts can provide equal amounts of parking without the need for variances.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the variances be denied as presented.

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## PETITIONER

Terry Lang with Lang Feeney - Wightman Team, 715 S Michigan St, South Bend, IN.

## INTERESTED PARTIES

There was no one from the public to speak.

## PUBLIC COMMENT

There was no one from the public to speak.

## ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried, a petition by POUYA PROPERTIES LLC seeking the following variances: 1) to allow new street access along Lincolnway West where an alley is available; 2) To allow the continued use of the existing street front access along Williams Street; 3) From the 5' minimum side setback for parking to 1.5 along the east property line; 4) From the required 5' minimum side setback for parking to 3' along the north property line; 5) From the 3 required bicycle parking spaces to none; 6) From the 15' minimum drive aisle width for one-way parking to 12'; and 7) From the 24' minimum drive aisle width for two-way parking to 22' was denied as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski - Absent

Mark Burrell - Yes

Kathy Schuth – Yes

- 7. The petition of ALBERT AND ELLA WILLIAMS seeking a Special Exception to allow Vehicle Service, Major, and seeking the following variance(s): 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to none; and 3) from 1 streetscape tree for every 30' of frontage to none, property located at 506 OLIVE ST. Zoned NC Neighborhood Center. *(Audio Position: 1:27:20)***

## ACTION

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking a Special Exception for Vehicle Service, Major for property located at 506 OLIVE ST, City of South Bend is moved to the end of the meeting to allow time for the petitioner to appear.

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Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

- 8. The petition of SHARK INVESTMENTS LLC seeking a Special Exception to allow minor vehicle service, property located at 1502 MIAMI RD. Zoned NC Neighborhood Center.** *(Audio Position: 1:28:20)*

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Coplin, being seconded by Mark Burrell and unanimously carried, a petition by SHARK INVESTMENTS LLC seeking a Special Exception for minor vehicle service for property located at 1502 MIAMI RD, City of South Bend is moved to the end of the meeting to allow time for the petitioner to appear.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

- 9. The petition of PEAK INVESTMENT & ASSET MANAGEMENT LLC - Praveen and Ellora Gulati seeking a Special Exception to allow Tobacco/Hookah/Vaping, and seeking the following variance(s): 1) To allow for parking in the establish front yard; and 2) From the 60% minimum transparency to none, property located at 1405 PORTAGE AVE. Zoned NC Neighborhood Center.** *(Audio Position: 1:29:01)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: With proper buffering and design, the proposed development should not have significant impact on surrounding residential property values. The development standards of the NC Neighborhood Center district should be applied to the property to help mitigate any impact on the surrounding neighborhood. This property is located at a commercial node along Portage Avenue.

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. The Staff recommends the Board approve variance #1 for parking in the established front yard, subject to meeting current development standards for off street parking and removing any excess pavement. The Staff recommends the Board deny variance #2.

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## PETITIONER

Praveen K. Gulati, Peak Investment, 5199 Gardenia Ct, West Lafayette, IN

## INTERESTED PARTIES

Bruce Huntington, Lawfirm of Botkin and Hall, 1003 N Hickory Rd, South Bend, IN spoke in opposition.

Nadim Elayn, 1409 Portage Ave, South Bend, IN spoke in opposition.

## PUBLIC COMMENT

Debbie Salle, 1312 California Ave, South Bend, IN spoke in opposition.

## ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by PEAK INVESTMENT & ASSET MANAGEMENT LLC seeking a Special Exception for Tobacco/Hookah/Vaping for property located at 1405 PORTAGE AVE, City of South Bend, is sent to the Common Council with a favorable recommendation, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by PEAK INVESTMENT & ASSET MANAGEMENT LLC seeking the following variances: 1) To allow for parking in the establish front yard; approved subject to meeting current development standards for off street parking and removing any excess pavement was APPROVED as presented and 2) From the 60% minimum transparency to none was DENIED as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

- 7. The petition of ALBERT AND ELLA WILLIAMS seeking a Special Exception to allow Vehicle Service, Major, and seeking the following variance(s): 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to**



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**none; and 3) from 1 streetscape tree for every 30' of frontage to none, property located at 506 OLIVE ST. Zoned NC Neighborhood Center.** *(Audio Position: 1:57:40)*

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Coplin, being seconded by Mark Burrell and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking a Special Exception for Vehicle Service, Major for property located at 506 OLIVE ST, City of South Bend is dismissed, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

Upon a motion by Kyle Coplin, being seconded by Mark Burrell and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking the following variances: 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to none; and 3) from 1 streetscape tree for every 30' of frontage to none was dismissed as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes  
Kyle Copelin - Yes  
Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

- 8. The petition of SHARK INVESTMENTS LLC seeking a Special Exception to allow minor vehicle service, property located at 1502 MIAMI RD. Zoned NC Neighborhood Center.** *(Audio Position: 1:58:23)*

ACTION

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, a petition by SHARK INVESTMENTS LLC seeking a Special Exception for minor vehicle service for property located at 1502 MIAMI RD, City of South Bend is tabled.

Caitlin Stevens - Yes  
Kyle Copelin - Yes

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Kaine Kanczuzewski - Absent  
Mark Burrell - Yes  
Kathy Schuth – Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – October 3, 2022

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried by vote, the Findings of Fact from the October 3, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes – October 3, 2022

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried by vote, the Minutes from the October 3, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business – 2023 Calendar

Upon a motion by Kyle Coplin, being seconded by Mark Burrell and unanimously carried by vote, the calendar for the 2023 Board of Zoning Appeals meetings is approved.

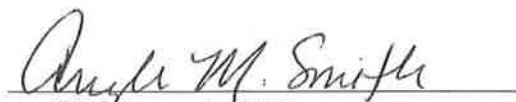
4. Adjournment – 6:02 pm

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,  
Chair

ATTEST:



ANGELA M. SMITH,  
Secretary of the Board