

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Tuesday, January 2, 2024
4:00 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:

Mark Burrell
Frank Fotia
Kaine Kanczuzewski (virtually)
Kathy Schuth

MEMBERS ABSENT:

Caitlin Stevens

ALSO PRESENT:

Michael Divita
Kari Myers
Jenna Throw
Kate Bolze

ADMINISTRATIVE ITEMS:

1. Election of Officers

(Audio Position: 0:00:55)

ACTION

After careful consideration, the following actions were taken:

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, Mark Burrell is nominated for and elected Chair of the Board of Zoning Appeals.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski - Absent
Mark Burrell - Yes
Kathy Schuth – Yes

Upon a motion by Frank Fotia, being seconded by Kathy Schuth and unanimously carried, Kathy Schuth is nominated for and elected Vice Chair of the Board of Zoning Appeals.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski - Absent
Mark Burrell - Yes
Kathy Schuth – Yes

2. Amend Agenda

(Audio Position: 0:04:53)

ACTION

After careful consideration, the following actions were taken:

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, the Agenda is amended such that Public Hearing item number 4, 721 Sample St, will be heard before item number 1, 918 Calvert St.

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Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Absent
Mark Burrell -Yes
Kathy Schuth – Yes

PUBLIC HEARINGS:

4. **The petition of JATT HOLDINGS LLC seeking the following variance(s): 1) from the minimum 20% transparency to 12% for a corner facade, property located at 721 SAMPLE ST. Zoned C Commercial.** *(Audio Position: 0:05:22)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: The road to the east of the property is a short, dead end road that functions as a driveway. While the east facade is technically a corner facade facing a street, it serves functionally as a side facade. Reducing the transparency standards from 20% for a corner facade to the existing 12% permits a design that is consistent with the intent of the Ordinance.

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

PETITIONER

Jack Pritchard, Jatt Holdings LLC, 56789 Spirea Rd, New Carlisle, IN appeared virtually to represent the petition.

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 Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by JATT HOLDINGS LLC seeking the following variances: 1) from the minimum 20% transparency to 12% for a corner facade was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Absent
Mark Burrell -Yes
Kathy Schuth – Yes

- 1. The petition of ROSENDO SANCHEZ seeking the following variance(s): 1) Accessory structure without a primary, property located at 918 CALVERT ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 0:10:36)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: Granting the variance will allow for the construction of a new house on the lot. The garage and shed are consistent with the character of the area and the legalization of the structures will facilitate further development in the community.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented conditional to the property owner seeking new home permits by 1/2/26 and beginning construction by 1/2/27.

Board Member Kaine Kanczuzewski joined the meeting virtually at Audio Position: 0:12:31

PETITIONER

Rosendo Sanchez, 727 Blaine Ave, South Bend, IN appeared in person to represent the petition.

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 Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by ROSENDO SANCHEZ seeking the following variances: 1) Accessory structure without a primary was approved as presented conditional to the property owner seeking new home permits by 1/2/26 and beginning construction by 1/2/27, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

- 2. The petition of JOHN J & MILDRED A STAKOWICZ seeking the following variance(s): 1) from the minimum VLT of 50% to 48%, property located at 3601, 3603 and 3609 JEFFERSON BLVD. Zoned NC Neighborhood Center.**

(Audio Position: 0:18:16)

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ACTION

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by JOHN J & MILDRED A STAKOWICZ seeking the following variances: 1) from the minimum VLT of 50% to 48% was withdrawn as presented.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

3. **The petition of HOME CITY ICE CO seeking the following variance(s): 1) from the 30' minimum front yard setback to 15', property located at 5310 BRICK RD. Zoned I Industrial.** *(Audio Position: 0:18:59)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: Large setbacks between I Industrial parcels and S1 Suburban Neighborhood I parcels exist to ensure appropriate buffering between incompatible uses.

Reducing the buffer to allow for a parking lot expansion would not meet the intent of the Ordinance.

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

PETITIONER

Steve Mowry, Mowry Builders, 1672 County Rd 1095, Ashland, OH 44805 appeared in person on behalf of the petitioner to represent the petition.

INTERESTED PARTIES

Cecelia Booher, 23573 Brick Rd, South Bend, IN appeared virtually and spoke in opposition to the petition.

Eugene Paidle, 23639 Brick Rd, South Bend, IN submitted an email in opposition to the petition

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Steve Mowry, Mowry Builders, 1672 County Rd 1095, Ashland, OH 44805 provided rebuttal comments.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by HOME CITY ICE CO seeking the following variances: 1) from the 30' minimum front yard setback to 15' was denied as presented, and will issue written Findings of Fact.

- Caitlin Stevens - Absent
- Frank Fotia - Yes
- Kaine Kanczuzewski -Yes
- Mark Burrell -Yes
- Kathy Schuth – Yes

- 5. The petition of JAMES M PARKER REV TRUST W/LIFE ESTATE, JAMES M PARKER TRUSTEE seeking the following variance(s): 1) from the allowed 4 parking stalls/spaces to 7, property located at 1717 IRELAND RD. Zoned S1 Suburban Neighborhood 1.** *(Audio Position: 0:38:32)*

STAFF REPORT

The staff report was presented by Kari Myers.
 Analysis: The 3.59 acre parcel is bounded by S1 Suburban 1 residentially zoned property (owned by the petitioners) and St. Joseph Valley Parkway on the west and I Industrial zoning to the south. The size of the property warrants consideration and relief from the strict application of the Ordinance.
 Staff Recommendation: Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as presented.

PETITIONER

Terry Lang, Wightman, 1402 Mishawaka Ave, South Bend, IN appeared in person on behalf of the petitioner to represent the petition.

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 Frank Fotia, being seconded by Kathy Schuth and unanimously carried, a petition by JAMES M PARKER REV TRUST W/LIFE ESTATE, JAMES M PARKER TRUSTEE seeking the following variances: 1) from the allowed 4 parking stalls/spaces to 7 was approved as presented, and will issue written Findings of Fact.

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Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

- 6. The petition of ROBERT HENDERSON seeking a Special Exception to allow a Group Residence, property located at 2921 WESTERN AVE. Zoned NC Neighborhood Center.**

(Audio Position: 0:44:16)

ACTION

After careful consideration, the following action was taken:

Upon a motion by Frank Fotia, being seconded by Kathy Schuth and unanimously carried, a petition by ROBERT HENDERSON seeking a Special Exception for a Group Residence for property located at 2921 WESTERN AVE, City of South Bend is tabled.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

- 7. The petition of WESTERN AVE LLC seeking a Special Exception to allow Minor Vehicle Service, and seeking the following variance(s): 1) from the minimum 60% transparency of a front façade to 7% and from the minimum 20% transparency of a corner façade ; and 2) to allow parking in the front/corner yard, property located at 3001, 3011, and 3015 WESTERN AVE. Zoned NC Neighborhood Center.**

(Audio Position: 0:45:26)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The building was originally constructed for window manufacturing, and was then used as a commercial vehicle service station from the mid 1980s until 2017. While the Neighborhood Center Zoning District outlines pedestrian orientated development, the use of Vehicle Service, Minor is an allowed Special Exception in the district, particularly for such instances. Because the proposed use is consistent with a previous use, it is within the character of the district and surrounding area.

The site contains no practical difficulties and it would not affect the usability of the site to install appropriate transparency that meets the standards of the Ordinance. However the use of the corner parcel as a parking area, if held to setback requirements, could hinder the usability and reactivation of the parcel.

Staff Recommendation: Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common

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Council with a favorable recommendation. The staff recommends the Board deny Variance #1 to allow reduced transparency requirements. Staff recommends the Board approve Variance #2 to allow parking in a front/corner yard.

PETITIONER

Ted Arhontas, 2565 Portage Ave, Las Vegas, NV appeared in person to represent the petition.

Manuel Villegas, 4102 W Western Ave, South Bend, IN appeared in person to represent the petition

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 Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by WESTERN AVE LLC seeking a Special Exception for Minor Vehicle Service for property located at 3001, 3011, and 3015 WESTERN AVE, City of South Bend, is sent to the Common Council with a favorable recommendation, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

Upon a motion by Frank Fotia, being seconded by Kathy Schuth and unanimously carried, a petition by WESTERN AVE LLC seeking the following variance: 2) to allow parking in the front/corner yard was approved as presented subject to the existing setback requirements for parking, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by WESTERN AVE LLC seeking the following variance: 1) from the minimum 60% transparency of a front façade to 7% and from the minimum 20% transparency of a corner façade to 0% was denied as presented, and will issue written Findings of Fact.

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Caitlin Stevens - Absent
Frank Fotia - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth – Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – December 6, 2023

(Audio Position: 1:14:58)

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Kaine Kanczuzewski and carried by vote, the findings of fact from the December 6, 2023 Board of Zoning Appeals meeting were approved.

2. Minutes – December 6, 2023

(Audio Position:1:15:43)

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Kaine Kanczuzewski and carried by vote, the minutes from the December 6, 2023 Board of Zoning Appeals meeting were approved.


3. Other Business

4. Adjournment – 5:16 PM

RESPECTFULLY SUBMITTED,


MARK BURRELL,
Chair

ATTEST:


TIM CORCORAN,
Interim Secretary of the Board