

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, August 2, 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 (left meeting at 6:47 p.m.)
Kathy Schuth

ALSO PRESENT:

Angela Smith
Joseph Molnar
Rachel Boyles

PUBLIC HEARINGS:

Upon a motion by Kaine Kanczuzewski being seconded by Dan Brewer and unanimously carried, a motion to reopen the public hearing on Agenda Item #1 was approved.

(Audio Position: 10:33)

- 1. 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: 11:00)

STAFF REPORT

The staff report was presented by Angela Smith.

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, Kevin Matcham, Denver, CO, & Chris Gormley, 12704 12th Ave SE Everett, WA 98208, served as the petitioners.

INTERESTED PARTIES

Steve Esilinger, 224 W Jefferson Blvd. Suite 517 South Bend, IN 46601, spoke on behalf of the Rappelli Family against the petition.

Leona Rappelli, 704 Peashway South Bend, IN 46601, sent a letter of opposition for this petition.

Northeast neighborhood Revitalization Organization, sent a letter in favor of this petition.

City of South Bend **BOARD OF ZONING APPEALS**

Troy Warner, 227 W Jefferson Blvd. 4th Floor South Bend, IN 46601, sent a letter in favor of this petition.

Matt Deputy, 100 E Wayne St. Suite 300 South Bend, IN 46601, spoke on behalf of the Jamison Residential Condominium Assoc., Inc. against the petition.

Beth Verterano, 1414 Ivy Court Unit B-5 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.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Gregory Kil offered a rebuttal.

After careful consideration, the following action was taken:

A motion by Kyle Copelin, being seconded by Dan Brewer to approve the petition by IRISH DREAMS INC seeking the following variances: 1) From the maximum height of 40' and 3 stories to 61' and 5 stories failed to carry.

Dan Brewer - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -No

Mark Burrell -No

Kathy Schuth – No

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and 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 denied as presented, and will issue written Findings of Fact.

Dan Brewer - No

Kyle Copelin - No

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth – Yes

- 2. The petition of EXPO EMPIRE LLC seeking the following variance(s): 1) From the 10' minimum setback for parking to 5' along Summit Drive; and 2) To allow drive-through stacking in an established corner yard, property located at 4921 WESTERN AVE. Zoned C Commercial.**
(Audio Position: 1:09:20)

City of South Bend **BOARD OF ZONING APPEALS**

Due to technical difficulties by the petitioner, a motion by Kaine Kanczuzewski, being seconded by Dan Brewer and unanimously carried Agenda Item #2 was tabled to the end of the agenda.

(Audio Position: 1:12:56)

(Audio Position: 3:20:52)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: Due to the excessive right-of-way width on Summit Drive as well as the placement of the ordering windows, the proposed variances meet the intent of the zoning ordinance while not adversely impacting neighboring properties.

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

PETITIONER

Jason Gigot, 226 N. Morgan Suite 300 Chicago, IL 60607, 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 Mark Burrell and unanimously carried, a petition by EXPO EMPIRE LLC seeking the following variances: 1) From the 10' minimum setback for parking to 5' along Summit Drive; and 2) To allow drive-through stacking in an established corner yard was approved as presented, and will issue written Findings of Fact.

Dan Brewer - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski - Absent

Mark Burrell - Yes

Kathy Schuth - Yes

- 3. The petition of DEV H12 LLC seeking the following variance(s): 1) From the maximum 120 sq.ft. for an exempt flag to 500 sq.ft.; and 2) From the maximum 40' in height for an accessory structure to 60', property located at 2112, 2036 and 2046 SOUTH BEND AVE. Zoned C Commercial.**

(Audio Position: 1:13:22)

STAFF REPORT

The staff report was presented by Angela Smith.

City of South Bend **BOARD OF ZONING APPEALS**

Analysis: There are no practical difficulties or unique characteristics that support the variance requested. The petition does not meet the required criteria. A properly sized flag could be placed on the property without needing any variances. Granting the variance would give an undue advantage to the property owner which could negatively impact the use of the adjacent properties as well as setting a precedence for the surrounding area. If a flag pole was installed at the allowed height and size, the setback requested would be reasonable.

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

PETITIONER

Haji Tehrani, 16915 Cleveland Rd Granger, IN 46530, 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 Dan Brewer, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by DEV H12 LLC seeking the following variances: 1) From the maximum 120 sq.ft. for an exempt flag to 500 sq.ft.; and 2) From the maximum 40' in height for an accessory structure to 60' 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

- 4. The petition of KENNETH J SWANSON seeking the following variance(s): 1) From the required location of a garage either at 5' or not less than 18' from an alley to 7', property located at 1314 COLLEGE ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 1:29:50)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: The foundation for the new garage was established prior to the updated Zoning Ordinance limiting garages accessed off an alley to be 5' or greater than 18' from the alley.

Allowing the petitioner to finish construction on the garage should not have negative impacts on the surrounding properties.

Staff Recommendation: The staff recommends the Board approves the variance as presented.

City of South Bend **BOARD OF ZONING APPEALS**

PETITIONER

Ken Swanson, 1314 College St. South Bend, IN 46628, 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 Kaine Kanczuzewski, being seconded by Dan Brewer and unanimously carried, a petition by KENNETH J SWANSON seeking the following variances: 1) From the required location of a garage either at 5' or not less than 18' from an alley to 7' 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

- 5. The petition of TARGET CORP ATTN: Mathew Flansburg seeking the following variance(s): 1) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 40 sq.ft. at 12' (Beacon Signs); 2) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 11 sq. ft. at 7' (Post and Panel Signs); and 3) To allow internally illuminated parking lot signs, property located at 1400 IRELAND. Zoned C Commercial.**

(Audio Position: 1:34:50)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Because the property is located away from the public right-of-way, the illumination of the signs should not have a significant impact. However, the overall size of the signs are inconsistent with the intent of the ordinance. With no practical difficulty, other than an attempt to reduce sign clutter, the variances as requested fail to meet the criteria for approval. If the illuminated signs are granted, even at a reduced height, the other variances requested would not be necessary or justified.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board deny variance #2 for the post and panel signs and approve the other variances, subject to a maximum 8' in height for the Beacon Sign.

City of South Bend **BOARD OF ZONING APPEALS**

PETITIONER

Eric Fiacable, 250 E 96th St. STE 580 Indianapolis, IN 46240, 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 Kaine Kanczuzewski, being seconded by Kyle Copelin and unanimously carried, a petition by TARGET CORP ATTN: Mathew Flansburg seeking the following variances: 1) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 40 sq.ft. at 12' (Beacon Signs); 2) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 11 sq. ft. at 7' (Post and Panel Signs); and 3) To allow internally illuminated parking lot signs was approved as presented, subject to the post and panel signs in variance #2 being a maximum of 6' in height, and will issue written Findings of Fact.

Dan Brewer - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

- 6. The petition of ST JOSEPH COUNTY PUBLIC LIBRARY seeking the following variance(s): 1) To allow internally illuminated parking lot (directional) signs; and 2) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 9 sq.ft. at 4'-6", property located at 304 Main STREET. Zoned DT Downtown. (Audio Position: 1:53:14)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The signs proposed replace existing non-conforming parking lot signs. The proposed signs are smaller than the existing signs, so it will lesson the degree of non-conformance. Since the 2 signs adjacent to western are only illuminated on the interior side, the impact should be minimal.

Staff Recommendation: Based on the information available prior to the public hearing, the staff recommends approval of the variances.

PETITIONER

Shaun Ensign, 7933 W HWY 6 Westville, IN 46391, served as the petitioner.

City of South Bend **BOARD OF ZONING APPEALS**

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 Dan Brewer, being seconded by Kyle Copelin and unanimously carried, a petition by ST JOSEPH COUNTY PUBLIC LIBRARY seeking the following variances: 1) To allow internally illuminated parking lot (directional) signs; and 2) From the maximum 6 sq.ft. at 4' in height for a parking lot sign to 9 sq.ft. at 4'-6" 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

- 7. The petition of SEVEN ENTROPY DESIGN STUDIO INC seeking the following variance(s): 1) From the minimum 24' parking drive aisle width to 12'; 2) From the requirement that all drives and off-street parking areas be hard surfaced to allow crushed lime stone gravel surface; 3) From the required 1 ADA parking space on site, to none; 4) From required Type 1 Parking Area Screening to none; and 5) From the required Streetscape Trees to no new additional trees, property located at 701 PORTAGE AVE. Zoned UF Urban Neighborhood Flex. *(Audio Position: 2:00:45)***

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The drive width and surface material were established before current zoning standards were established. As the drive has been in its historic configuration and surface type for decades, it is reasonable to grant variances allowing for its continued use without expecting negative impacts on the public or surrounding property owners. All other requested variances are to remedy hardships created by the current property owners desire to establish a parking lot on the site. There are no practical difficulties that prevent adhering to the current zoning standards for parking, buffering, and ADA accessibility.

Staff Recommendation: Based on information provided prior to the public hearing, the staff recommends the Board approve variance #2, subject to the limiting the variance to the drive aisle as it pervious existed. The staff recommends the Board deny the other variances as presented.

City of South Bend **BOARD OF ZONING APPEALS**

PETITIONER

Gregory Kil, 1126 Lincoln Way E South Bend, IN 46601, and Norrie Emmons, 23186 W Ireland Rd. South Bend, IN 46614, served as the petitioners.

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 Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by SEVEN ENTROPY DESIGN STUDIO INC seeking the following variances: 1) From the minimum 24' parking drive aisle width to 22'; 2) From the requirement that all drives and off-street parking areas be hard surfaced to allow crushed lime stone gravel surface for the original drive location only; 3) From required Type 1 Parking Area Screening to what is shown on the site plan; 4) From the required Streetscape Trees to what is shown on the site plan 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

- 8. The petition of WILLIAM B SKIDMORE seeking the following variance(s): 1) From the 5' minimum side setback to 0', property located at 1093 RIVERSIDE DR. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 2:25:00)*

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: There are no practical difficulties or unique characteristics that support the variance requested. As demonstrated on the site plan submitted by the petitioner, the entire deck could be placed 5' to the east which would remove the need for a variance. Minimum setbacks, especially along the side lot line, are critical for maintaining adequate light, air, and safety standards.

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

PETITIONER

Michael Holt, 50920 Mercury St. Granger, IN 46530, and William Skidmore, 1093 Riverside Dr. South Bend, IN 46616, served as the petitioners.

City of South Bend **BOARD OF ZONING APPEALS**

INTERESTED PARTIES

Tere 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 Dan Brewer, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by WILLIAM B SKIDMORE seeking the following variances: 1) From the 5' minimum side setback to 0' 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

- 9. The petition of CIVIL CITY OF SOUTH BEND seeking the following action: 1) Modification of Written Commitments to allow the extension of the use as the Weather Amnesty.** *(Audio Position: 2:58:13)*

STAFF REPORT

The staff report was presented by Angela Smith.

PETITIONER

Pam Meyer, 227 W Jefferson Blvd. Suite 1400S South Bend, IN 46601, served as the petitioner.

INTERESTED PARTIES

Chris Priemer, 431 S Main St. South Bend, IN 46601, spoke against this petition.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Pam Meyer offered a rebuttal.

After careful consideration, the following action was taken:

Upon a motion by Dan Brewer, being seconded by Mark Burrell and unanimously carried, a petition by CIVIL CITY OF SOUTH BEND seeking the following action: 1) Modification of

City of South Bend **BOARD OF ZONING APPEALS**

Written Commitments to allow the extension of the use as the Weather Amnesty was approved, subject to an expiration date of May 1, 2022.

- 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 – July 6, 2021

Upon a motion by Kyle Copelin, being seconded by Dan Brewer and unanimously carried, the findings of fact from the July 6, 2021 Board of Zoning Appeals meeting were approved.

2. Minutes – July 6, 2021

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, the minutes from the July 6, 2021 Board of Zoning Appeals were approved.

3. Other Business

4. Adjournment – 6:53 p.m.

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board