

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, November 1, 2021
4:00 p.m.

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

MEMBERS PRESENT:

Mark Burrell
Kyle Copelin
Kaine Kanczuzewski
Kathy Schuth
Caitlin Stevens

ALSO PRESENT:

Angela Smith
Joseph Molnar
Rachel Boyles
Tom Panowicz

PUBLIC HEARINGS:

- 1. The petition of 1710 TURTLE CREEK LLC and Krieg DeVault Representative seeking a Special Exception to allow Shared Housing, and seeking the following variance(s): 1) From the 120' maximum building width to 350', property located at V/L REAR OF 1705 SOUTH BEND AVE and 1705 SOUTH BEND AVE. Zoned U3 Urban Neighborhood 3.**
(Audio Position: 05:16)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Allowing the proposed use of Shared Housing will further the ability to redevelop the site and add investment to the area. The site is currently used as student housing in a development nearing the end of its life cycle. The proposed use will lead to a large investment into the area without significantly changing the current land use. The redevelopment will bring this 11 acre parcel into compliance with the updated development standards established in the current Zoning Ordinance. Approving the variance for the interior portion of the site will allow for more flexibility in design and support the construction of a garage to support the increased density. By maintaining code compliant buildings on the interior of the lot, the development reflects the intent of the Ordinance to the general public.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. The staff recommends approval of the variance for buildings not fronting on a public street.

PETITIONER

Steven Studder, 4101 Edison Lakes Parkway Mishawaka, IN 46545, served as the petitioner.

INTERESTED PARTIES

There was no one from the public to speak.

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

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 1710 TURTLE CREEK LLC seeking a Special Exception for Shared Housing for property located at V/L REAR OF 1705 SO BEND AV and 1705 SOUTHBEND 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 - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

Upon a motion by Kaine Kanczuzewski, being seconded by Kyle Copelin and unanimously carried, a petition by 1710 TURTLE CREEK LLC seeking the following variances: 1) From the 120' maximum building width to 350' was approved as presented, and will issue written Findings of Fact.

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

2. **The petition of CENTIER BANK seeking the following variance(s): 1) From the required 10' bail out lane for the drive-through to none; and 2) From the 10' minimum front setback for parking and drives to 0', property located at 52610 PORTAGE RD. Zoned C Commercial.** *(Audio Position: 09:41)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Due to the excessive right-of-way width on Portage Avenue, reducing the front setback for the access drive will allow for improved site circulation without having a significant impact on adjacent properties. Due to the narrow width of the property, a proper bail out lane is impractical. The proposed site plan still provides an avenue for exiting the queue before entering the carwash.

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

PETITIONER

Jarice Barbie, 8345 Gunn Highway Tampa, FL 33626, 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 CENTIER BANK seeking the following variances: 1) From the required 10' bail out lane for the drive-through to none; and 2) From the 10' minimum front setback for parking and drives to 0' was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

- 3. The petition of ST PATRICK CHURCH DIOCESE OF FT WAYNE seeking the following variance(s): 1) From the 4' maximum in a corner or front yard to 6'; and 2) To allow a wire fence material in the NC district, property located at 309 TAYLOR ST. Zoned NC Neighborhood Center.** *(Audio Position: 17:25)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties or unique characteristics that support the requested variances. Wire fence material is not appropriate for either the zoning district or being placed in the front/corner yards of the property.

The intersection of Wayne and Scott is not a heavily trafficked intersection. A 4' fence could be used to secure the property and meet the stated intent by the petitioner. A 4' fence is not uncommon for playgrounds or schools in urban areas.

Staff Recommendation: The staff recommends the Board deny the variance from the 4' maximum in a corner or front yard to 6'. The staff recommends the board approve the variance to allow a chain link fence, subject to the chain link being black vinyl coated.

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PETITIONER

Emily Nye, 308 S. Scott St. South Bend, IN 46601, served as the petitioner.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

Noah Forneri, 308 S. Scott St. South Bend, IN 46601, spoke in support of this petition.
Peter McAulife, 308 S. Scott St. South Bend, IN 46601, spoke in support of this petition.
Christen Howard, 308 S. Scott St. South Bend, IN 46601, spoke in support of this petition.
Colin Howell, 308 S. Scott St. South Bend, IN 46601, spoke in support of this petition.
Peter Freddoso, 54748 Bonnethill Trail Mishawaka, IN 46545, spoke in support of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kaine Kanczuzewski, being seconded by Kyle Copelin and carried, a petition by ST PATRICK CHURCH DIOCESE OF FT WAYNE seeking the following variances: 1) From the 4' maximum in a corner or front yard to 6'; and 2) To allow a wire fence material in the NC district was approved as presented, subject to 1) The wood posts be painted black to match the fence; and 2) The fence be removed or replaced with a code compliant fence on or before June 1, 2023, and will issue written Findings of Fact.

Caitlin Stevens - No
Kyle Copelin - Yes
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth - Yes

- 4. The petition of ADEC INC seeking the following variance(s): 1) To allow a parking lot in the established front and corner yards; and 2) From the 4' maximum fence height to 4'-2.5", property located at 5735 IRONWOOD Drive (2010 Farnsworth Dr.). Zoned UF Urban Neighborhood Flex.** *(Audio Position: 54:32)*

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: Due to the property having street frontages on three sides, there are no good options for placement of the parking lot or a fenced in area for client care. Granting the variances will allow for redevelopment of the site in a manner that brings the site up to conformance with drainage and screening while actually reducing the impact on the surrounding properties.

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

Mike Huber, 315 W. Jefferson Blvd. South Bend, IN 46601, 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 Caitlin Stevens and unanimously carried, a petition by ADEC INC seeking the following variances: 1) To allow a parking lot in the established front and corner yards; and 2) From the 4' maximum fence height to 4'-2.5" was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

- 5. The petition of MATTHEW AND HANNAH DEPUTY seeking the following variance(s): 1) To allow access from the street where alley access is available, property located at 1527 COLFAX AVE. Zoned S1 Suburban Neighborhood 1.**

(Audio Position: 1:02:15)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: There are no practical difficulties the prevent the petitioner from building a new garage with continued use of the alley for access or to necessitate a curb cut on Colfax Avenue. The primary house and original garage were built in 1928, during that entire time access has been provided through the alley as originally platted.

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

PETITIONER

Matt and Hannah Deputy, 1527 E. Colfax Ave. South Bend, IN 46617, served as the petitioner.

INTERESTED PARTIES

Julia Robins, 1616 E Colfax Ave. South Bend, IN 46617, spoke in support of this petition. Five letters of support were also received.

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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 Kyle Copelin and unanimously carried, a petition by MATTHEW AND HANNAH DEPUTY seeking the following variances: 1) To allow access from the street where alley access is available was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

- 6. The petition of CHICK-FIL-A INC seeking the following variance(s): 1) To allow a drive-through facility in the established front yard, property located at 4555 S MICHIGAN ST. Zoned C Commercial.**

(Audio Position: 1:23:10)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: The variance requested will allow for the installation of a second drive-through lane, a standar operation across major fast food operations. The front yard, in this case, fronts a limited access highway with no sidewalk or direct access. Allowing the continued use of the front as a drive through should not have a negative impact on surrounding properties.

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

PETITIONER

Allan Wiley, 565 White Pond Dr. Akron, OH 44320, 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:

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Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by CHICK-FIL-A INC seeking the following variances: 1) To allow a drive-through facility in the established front yard was approved as presented, and will issue written Findings of Fact.

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

7. The petition of MURPHY'S CAPTIAL LLC seeking a Special Exception to allow a Two Unit Dwelling, property located at 2614 FORD ST. Zoned U1 Urban Neighborhood 1.

(Audio Position: 1:27:42)

STAFF REPORT

The staff report was presented by Joseph Molnar.

Analysis: The proposed construction of a two unit dwelling will further compliment the existing housing stock in the surrounding area, as well as providing more diverse housing types for residents. Ford Street has a history of small scale multi-unit dwellings. The proposed two unit dwelling will fit into that existing setting, as well as reactivating a vacant lot.

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 as presented.

PETITIONER

Tim Hawkins, 450 E. 96th St. Suite #500 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 Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by MURPHY'S CAPTIAL LLC seeking a Special Exception for a Duplex for property located at 2614 FORD ST, City of South Bend, is sent to the Common Council with a favorable recommendation, and will issue written Findings of Fact.

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

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – October 4, 2021

(Audio Position: 1:34:09)

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, the findings of fact from the October 4, 2021 Board of Zoning Appeals meeting were approved.

2. Minutes – October 4, 2021

(Audio Position: 1:34:25)

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, the minutes from the October 4, 2021 Board of Zoning Appeals meeting were approved.

3. Other Business


4. Adjournment – 5:35 p.m.

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA SMITH
Secretary of the Board