

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, June 6, 2022
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
Rachel Boyles
Tom Panowicz

PUBLIC HEARINGS:

- 1. The petition of EILEE ZHU seeking the following variance(s): 1) from the 3' maximum fence in the established corner yard to 6', property located at 525 SUNNYSIDE AVE. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 3:38)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 5' fence in this location. The current fence is not consistent with the intent of the ordinance. The site is already elevated above the street and a code compliant fence could provide the security and privacy desired by the applicant. The property owner installed the fence without a permit and in violation of a decision previously made by the Board of Zoning Appeals.

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

PETITIONER

Jonathan Mahoney and Eilee Zhu, 525 N Sunnyside Ave South Bend, IN 46617, served as the petitioners.

INTERESTED PARTIES

One letter was received in favor of the petition.

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 Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by EILEE ZHU seeking the following variances: 1) from the 3' maximum fence in the established corner yard to 6' was denied 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 BEVERLY J STEELE seeking the following variance(s): 1) from the 10' minimum front building setback to 0', property located at 3030 NORTHSIDE BLVD. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 15:39)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: Provided the encroachment is approved by the Board of Public Works, the porch addition should not adversely impact the surrounding properties or the general welfare of the community. It is consistent with the residential character. The right of way is wider than normal in this area, which creates a practical difficulty for this property.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance subject to approval of an encroachment from the Board of Public Works.

PETITIONER

Beverly Steele, 3030 Northside Blvd. South Bend, IN 46615, 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 Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried, a petition by BEVERLY J STEELE seeking the following variances: 1) from the 10'

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minimum front building setback to 0' was approved the variance subject to approval of an encroachment from the Board of Public Works. and will issue written Findings of Fact.

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

- 4. The petition of GOLDEN YEARS REAL ESTATE LLC seeking the following variance(s): 1) from maximum 2,500 square foot for a Retail & Service use to 3,950 square feet, property located at 614 IRELAND RD. Zoned UF Urban Neighborhood Flex.** *(Audio Position: 23:20)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The site is located along a heavily traveled mixed use corridor where larger buildings are typically acceptable. The lot is larger than typically found in the UF Urban Neighborhood Flex district. As the proposed use is not retail in nature, expanding the size of the building should have minimal impacts on surrounding neighborhoods. The expansion is consistent with what would be allowed for other professional offices.

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

PETITIONER

Terry Lang, 715 S Michigan St. South Bend, IN 46601, represented 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 GOLDEN YEARS REAL ESTATE LLC seeking the following variances: 1) from maximum 2,500 square foot for a Retail & Service use to 3,950 square feet was approved as presented, 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

- 5. The petition of NICKLE ANDREW W AND ERNESTINE C seeking the following variance(s): 1) From 48" maximum fence height for a 50% open fence in the established front and corner yard to 54", property located at 1425 WOODSIDE ST . Zoned S1 Suburban Neighborhood 1.** *(Audio Position: 31:21)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 54" fence in this location. The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property. The property can still be secured with a shorter code compliant fence that does not prohibit security or privacy of the property. Aesthetic preference is not a practical difficulty.

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

PETITIONER

David Yoquelet, 3699 Destiny Dr Bremen, IN 46506, and Andrew Nickle, 1425 E. Woodside St. 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 Kyle Copelin and unanimously carried, a petition by NICKLE ANDREW W AND ERNESTINE C seeking the following variances: 1) From 48" maximum fence height for a 50% open fence in the established front and corner yard to 54" was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kyle Copelin - Yes

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Kaine Kanczuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact

(Audio Position: 53:24)

- a. Order, Findings of Fact, and Conclusions of Law: BZA#0110-22 An Administrative Appeal to citations issues at 122 S. Niles, more specifically did the Zoning Administrator improperly issue citations to Rive Race where petitioner contends a legal non-conforming parking lot has been in continuous use since before the cited ordinance existed.

Upon a motion by Mark Burell, being seconded by Caitlin Stevens and unanimously carried by vote, the Order, Findings of Fact, and Conclusions of Law: BZA#0110-22 An Administrative Appeal to citations issues at 122 S. Niles, more specifically did the Zoning Administrator improperly issue citations to Rive Race where petitioner contends a legal non-conforming parking lot has been in continuous use since before the cited ordinance existed was approved.

- b. Order, Findings of Fact, and Conclusions of Law: BZA#0111-22 An Administrative Appeal to a determination made by the Zoning Administrator, more specifically did the Zoning Administrator review 701 Nile's application by arbitrarily defining "hotel" without reference to Indiana legal authority

Upon a motion by Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried by vote, the Order, Findings of Fact, and Conclusions of Law: BZA#0111-22 An Administrative Appeal to a determination made by the Zoning Administrator, more specifically did the Zoning Administrator review 701 Nile's application by arbitrarily defining "hotel" without reference to Indiana legal authority was approved.

- c. Remaining Public Hearing Items for May 2, 2022

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried by vote, the findings of fact from the May 2, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes – May 2, 2022

(Audio Position: 56:29)

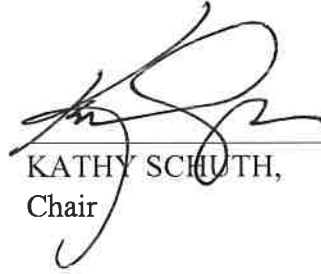
Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried by vote, the minutes from the May 2, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business

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4. Adjournment – 5:04 p.m.


RESPECTFULLY SUBMITTED,



A handwritten signature in black ink, appearing to read 'Kathy Schuth', is written over a horizontal line.

KATHY SCHUTH,
Chair

ATTEST:



A handwritten signature in black ink, appearing to read 'Angela M. Smith', is written over a horizontal line.

ANGELA M. SMITH,
Secretary of the Board