

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, August 1, 2022
4:00 p.m.

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

MEMBERS PRESENT:

Mark Burrell
Kyle Copelin
Kaine Kanczuzewski
Kathy Schuth
Caitlin Stevens

ALSO PRESENT:

Angela Smith
Rachel Boyles
Kate Bolze
Tom Panowicz

PUBLIC HEARINGS:

- 1. The petition of JOHN C & SHARON K ENGSTROM seeking the following variance(s): 1) to allow a fence to be erected so the finished side of the fence faces the interior of the lot, property located at 4007 KIRBY CT. Zoned S1 Suburban Neighborhood 1. (Audio Position: 4:33)**

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by JOHN C & SHARON K ENGSTROM seeking the following variances: 1) to allow a fence to be erected so the finished side of the fence faces the interior of the lot was tabled to September 6, 2022.

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

- 2. The petition of OLD DOMINION FREIGHT LINE INC ATTN: JERRY CANADA seeking the following variance(s): 1) from the 6' maximum fence height in the established front yard to 8'; and 2) to allow barbed wire in the established front yard, property located at 3825 WILLIAM RICHARDSON DR. Zoned I Industrial. (Audio Position: 5:00)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The primary building is approximately 225' from the right of way, creating a larger than normal established front yard. Allowing a taller fence in the front yard where indicated on the site plan should not have injurious impacts on the community. While it is technically in the established front yard it is set back a significant distance from the road and behind other site

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

improvements on the property. The proposed height variance should not impact use and value of the adjacent properties due to the significant setback of the primary building.

The proposed barbed wire variance, however, is not an appropriate material to be used in the City, especially in the front yard. This is not a use in which the federal or state government require that security measure. There are other security measures available to the petitioner, including the height variance for the fence.

Staff Recommendation: Based on information provided prior to the public hearing, the staff recommends the Board approve variance #1 for the height of the fence, and deny variance #2 for the addition of barbed wire.

PETITIONER

Zebulon King with Old Dominion Corporate Office, 5000 Old Dominion Way, Thomasville, NC

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 Mark Burrell and unanimously carried, a petition by OLD DOMINION FREIGHT LINE INC ATTN: JERRY CANADA seeking the following variances: 1) from the 6' maximum fence height in the established front yard to 8' was approved as presented; and 2) to allow barbed wire on the fence 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 The BarClay Corporation seeking the following variance(s): 1) from the required 200' lineal spacing from a public park to 162' and from the maximum allowable 35' height to 50' for a billboard, property located at 4316 Michigan. Zoned C Commercial.** *(Audio Position: 12:45)*

Upon a motion by Kyle Copelin, being seconded by Caitlin Stevens and unanimously carried, a petition by The BarClay Corporation seeking the following variances: 1) from the required 200' lineal spacing from a public park to 162' and from the maximum allowable 35' height to 50' for a billboard was tabled to September 6, 2022.

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

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

- 4. The petition of 466 WORKS COMMUNITY DEVELOPMENT CORPORATION seeking the following variance(s): 1) to allow accessory structures without a primary building; and 2) from the 4' maximum fence height to 6', property located at 404 INDIANA AVE. Zoned U1 Urban Neighborhood 1. (Audio Position: 13:00)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The proposed variance is to allow a temporary use of the property as a playground for the daycare on the adjacent property. Because of licensing requirements, the fence must be permanently affixed to the ground.

Staff Recommendation: Based on the information available prior to the public hear, the staff recommends the Board approve the variances as presented, subject to the fence being removed when the permanent playground is installed.

PETITIONER

Sy Barker, VP Board of Directors, 466 Work Community Development Corporation, 15026 Stransbury Crt, Granger, IN

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 466 WORKS COMMUNITY DEVELOPMENT CORPORATION seeking the following variances: 1) to allow accessory structures without a primary building; and 2) from the 4' maximum fence height to 6' was approved as presented subject to the fence being removed in its entirety when the permanent playground is installed and before the end of the year, and will issue written Findings of Fact.

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

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

Kathy Schuth - Yes

- 5. The petition of JAIME DIAZ seeking a Special Exception to allow Vehicle Service, Minor, and seeking the following variance(s): 1) to allow parking in the established front/corner yard; 2) from the 5' minimum parking area screening to none; and 3) from 1 shade tree for every 30' to none, property located at 1430 MISHAWAKA AVE. Zoned NC Neighborhood Center. (Audio Position: 21:17)**

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The original intent of the building was for an automotive repair shop, though the Neighborhood Center Zoning District outlines pedestrian orientated development, the use of Vehicle Service, Minor is an allowed Special Exception in the district for such instances. Because the proposed use is consistent with the original 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 code compliant landscaping. However the current layout of the parking area, if brought into conformance would hinder the usability and reactivation of the building.

Staff Recommendation: Based on the information provided prior to the public hearing, Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation. The staff recommends the Board approve Variance #1 to allow parking in the established front/corner yard. Staff recommends the Board deny Variance #2 from the minimum 5' parking area screening to none and Variance #3 from 1 shade tree for every 30' to none.

PETITIONER

Jamie Diaz, 1430 Mishawaka Ave

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 JAIME DIAZ seeking a Special Exception for Vehicle Service, Minor for property located at 1430 MISHAWAKA 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

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

Mark Burrell - Yes

Kathy Schuth - Yes

Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by JAIME DIAZ seeking the following variances: 1) to allow parking in the established front/corner yard was approved as presented; 2) from the 5' minimum parking area screening to none was denied as presented; and 3) from 1 shade tree for every 30' to none 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

- 6. The petition of SOUTH BEND TRIBUNE % MARK HOCKER seeking a Special Exception to allow Vehicle Service, Minor, and seeking the following variance(s): 1) from the 60% minimum transparency to 5%, property located at 223 N. LAFAYETTE BLVD. Zoned DT Downtown. (Audio Position: 30:37)**

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The proposed use as a vehicle service center, namely car detailing, is a desirable reuse of a building that has existed for 100 years. Because the use requires a special exception, the building is required to be brought to current standards. To fully restored the facade of the building would be a large undertaking. The petitioner is meeting the intent of the ordinance by ensuring the existing windows are not covered and operating with the overhead door open during the day, which creates the vibrancy expected in a downtown location.

Staff Recommendation: Based on the information provided prior to the public hearing, staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation and approve the variance as presented.

PETITIONER

Randy Moore, 1509 Berkshire Dr, South Bend, IN 46614

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:

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

Upon a motion by Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by SOUTH BEND TRIBUNE % MARK HOCKER seeking a Special Exception for Vehicle Service, Minor for property located at 223 N. LAFAYETTE BLVD, 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 Mark Burrell and unanimously carried, a petition by SOUTH BEND TRIBUNE % MARK HOCKER seeking the following variances: 1) from the 60% minimum transparency to 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

- 7. The petition of VICKY L HOLAWAY seeking the following variance(s): 1) from the 3' maximum fence height in the established front/corner yard to 8'; and 2) from the 6' maximum fence height in the established rear yard to 8', property located at 344 BERCLIFF DR. Zoned S1 Suburban Neighborhood 1. *(Audio Position: 38:37)***

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The fact that this is a corner property on a heavily traveled 5 lane road does create some practical difficulty for the property. Ideally the fence would be located a minimum of 5' from the property line to allow additional line of sight from the driveway to the east. However the existing concrete drive would make that difficult. By limiting the location of the 6' fence to the eastern 90', it allows for the majority of the effective rear yard of the property, up to the point where the concrete turnaround stops, to be screened in a manner consistent with an established rear yard.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board deny the variance from the 6' maximum fence height to 8' in the established rear yard. The Staff recommends the Board approve the variance from the 3' maximum fence height to 6', subject to being limited to the eastern 90' of the property.

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

PETITIONER

Viky Holaway, 344 Bercliff Dr, 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.

After careful consideration, the following action was taken:

Upon a motion by Kaine Kancuzewski, being seconded by Kyle Copelin and unanimously carried, a petition by VICKY L HOLAWAY seeking the following variances: 1) from the 3' maximum fence height in the established front/corner yard to 6' was approved as presented subject to the fence length being to the extent of the existing 6' fence; and 2) from the 6' maximum fence height in the established rear yard to 8' was denied as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kancuzewski - Yes

Mark Burrell - Yes

Kathy Schuth – Yes

- 8. The petition of SUSAN MWANGI UND 1/2 INT AND ANDREW MWANGI UND 1/2 INT seeking a Special Exception to allow Dwelling, 2 units, property located at 1908 CALVERT ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 57:37)

STAFF REPORT

The staff report was presented by Rachel Boyles.

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. The conversion and rehab of a currently vacant one unit dwelling to a two unit dwelling will be visually indistinguishable from nearby one unit dwellings. The petitioner is proposing no significant changes to the exterior of the building, leaving the option to revert back to a single unit dwelling in the future.

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

Andrew Mwangi and Susan Mwangi, 1908 Calvert St, South Bend, IN

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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by SUSAN MWANGI UND 1/2 INT AND ANDREW MWANGI UND 1/2 INT seeking a Special Exception for Dwelling, 2 units for property located at 1908 CALVERT ST, 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

- 9. The petition of NEAR NORTHWEST NEIGHBORHOOD INC seeking a Special Exception to allow Dwelling, 2 Units, property located at 914 SHERMAN AVE. Zoned U1 Urban Neighborhood 1. (Audio Position: 1:04:10)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The proposed construction of a two-unit dwelling will further complement the wide range of development occurring in the Near Northwest Neighborhood (NNN). The proposed duplex will compliment the surrounding neighborhood efforts by 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

Jaff Stanifor, 315 Park Ave, Mishawaka, IN

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 NEAR NORTHWEST NEIGHBORHOOD INC seeking a Special Exception for Dwelling, 2 Units for property located at 914 SHERMAN 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 - Recused

10. The petition of AMANCIO RODRIGUEZ seeking a Special Exception to allow Vehicle Service, Minor, and seeking the following variance(s): 1) from the 60% minimum transparency to X; and 2) to allow parking in the established front/corner yards., property located at 316 N OLIVE ST. Zoned NC Neighborhood Center. (Audio Position: 1:07:52)

Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by AMANCIO RODRIGUEZ seeking a Special Exception for Vehicle Service, Minor for property located at 316 N OLIVE ST, City of South Bend is tabled.

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 – June 6, 2022 *(Audio Position: 1:08:55)*

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unamiously carried, the findings of fact from the June 6, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes – June 6, 2022 *(Audio Position: 1:09:12)*


Upon a motion by Kyle Copelin, being seconded by Mark Burrell and unanimously carried, the minutes from June 6, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business

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

4. Adjournment – 5:16 p.m.

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board