

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Tuesday, September 6, 2022
4:01 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
Jenna Throw

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: 04:01)

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The standards for the orientation of the fence are designed to protect the safety of the property owner and the property value of the adjacent neighbor. However, the ability to install a fence in this manner requires either permission from the neighbor or the fence to be installed 2' - 3' off the adjacent property. The latter may result in areas difficult to maintain in the future.

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

PETITIONER

John and Sharon Engstrom, 4007 Kirby Dr, 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.

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

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 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 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 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: 14:36)*

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell 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 withdrawn as presented.

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

- 3. **The petition of CHAD MICHAEL WARNOCK seeking the following variance(s): 1) from the 5' minimum side yard setback to 0', property located at 1432 DUBAIL AVE. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 15:04)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Provided the owner can rectify the active building violations, building the garage at the setback should not adversely impact the surrounding properties or the general welfare of the community. The surrounding neighborhood developed with a pattern of detached garages being installed at or near the property lines. Approving the variance would be in line with the established neighborhood development.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance subject to all active violations be rectified and all outstanding fines be paid.

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

PETITIONER

Chad Warnock, 1432 E Dubail Ave, South Bend, IN 46613, served as the petitioner.

INTERESTED PARTIES

One letter was provided at the meeting in support of the petition.

Gloria Stickley, 1705 S Twyckenham Dr, South Bend, IN 46613, spoke in opposition of the petition.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Chad Warnock, 1432 E Dubail Ave, South Bend, IN 46613, provided a rebuttal.

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 CHAD MICHAEL WARNOCK seeking the following variances: 1) from the 5' minimum side yard setback 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

- 4. The petition of ERIN REAL ESTATE INC seeking the following variance(s): 1) from the 3' maximum fence height in an established front yard to 6', property located at 1943 HUEY ST. Zoned S1 Suburban Neighborhood 1. (Audio Position: 32:22)**

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: While this particular property became a through lot when they purchased the additional lot, that is not the pattern of development for the block or neighborhood. Approving a privacy fence in the established front yard with a 25' setback from Elmer St. would allow the property owner adequate use of the lot while meeting the intent of the Ordinance.

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

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance as requested, subject to a 25' setback from Elmer St.

PETITIONER

Ramona Cruz, 1943 Huey 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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by ERIN REAL ESTATE INC seeking the following variances: 1) from the 3' maximum fence height in an established front yard to 6' was approved as presented, subject to a 25' setback from Elmer St., 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 ERIC FRICKSON seeking the following variance(s): 1) from the 5' minimum side setback to 2' 6", property located at 1133 MILTON ST. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 46:53)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Building the garage at the setback should not adversely impact the surrounding properties or the general welfare of the community. The surrounding neighborhood developed with a pattern of detached garages being installed at or near the property lines. Approving the variance would be in line with the established neighborhood development, however, the neighborhood has a pattern of shared driveways due to this an additional curb cut will not be allowed.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance subject to prohibiting additional curb cuts on Milton St.

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

PETITIONER

Eric Frickson, 1133 Milton St, South Bend, IN 46613, served as the petitioner.

INTERESTED PARTIES

Dave Joxwiak, 1132 E Dayton St, South Bend, IN 46613, spoke in opposition of the petition. One note was provided at the meeting in support of the petition.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Eric Frickson, 1133 Milton St, South Bend, IN 46613, provided a rebuttal.

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 ERIC FRICKSON seeking the following variances: 1) from the 5' minimum side setback to 2' 6" 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 JAN KRZYSZTOF SIKORSKI & MONICA M SIKORSKI seeking the following variance(s): 1) from the 5' minimum side yard setback to 2', property located at 720 PARK AVE. Zoned U1 Urban Neighborhood 1. *(Audio Position: 1:05:07)***

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: Provided the owner can retain the water run-off from the roof, building a new garage at a similar side setback as the existing garage should not adversely impact the surrounding properties or the general welfare of the community. The surrounding neighborhood developed with a pattern of detached garages being installed at or near the property lines. Approving the variance would be in line with the established neighborhood development.

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

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

PETITIONER

Jan Krzysztof Sikorski, 720 Park Ave, South Bend, IN 46616, 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 JAN KRZYSZTOF SIKORSKI & MONICA M SIKORSKI seeking the following variances: 1) from the 5’ minimum side yard setback to 2’ 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 WAGGONERS DAIRY FARM INC % CHESTER W WAGGONER seeking the following variance(s): 1) To allow off-street loading in the corner yard, property located at 5910 DYLAN. Zoned I Industrial. (Audio Position: 1:18:03)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The overall design of the industrial park was laid out to prohibit access to Mayflower Rd. This created the need for an internal streets system and the road dead ends in the industrial park. The only properties affected by this are other industrial sites utilizing the access in the same manner. The property has 3 frontages and limiting the site to one access would not allow for an industrial use to use the site. The approval of the variance should not be injurious to the public health, safety, morals or general welfare of the community. The surrounding properties were all developed with two access drives along the same frontage.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance subject to installation of a Type 3 Buffer shielding the loading areas.

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

PETITIONER

Robert Nichols, Abonmarche Consultants, 315 W Jefferson Blvd, South Bend, IN 46601, served as petitioner.

INTERESTED PARTIES

One letter was received in opposition of the petition.

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 Caitlin Stevens and unanimously carried, a petition by WAGGONERS DAIRY FARM INC % CHESTER W WAGGONER seeking the following variances: 1) To allow off-street loading in the corner 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

- 8. 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: 1:26:14)

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The original intent of the building was for a gas station, 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 should have less of an impact than 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.

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

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 the variances and presented.

PETITIONER

Amancio and Jetsel Rodriguez, 316 N Olive St, South Bend, IN 46628, served as 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 Mark Burrell 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 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 Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by AMANCIO RODRIGUEZ seeking the following variances: 1) from the 60% minimum transparency to the existing transparency; and 2) to allow parking in the established front and corner yards 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

9. **The petition of ANDREW J HOFFMAN & MICHAEL J & JOHN T seeking a Special Exception to allow Retail Sales, 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 1702 WESTERN AVE. Zoned UF Urban Neighborhood Flex. (Audio Position: 1:32:44)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The original intent of the building was for an automotive repair shop, allowing a retail use at this location should not adversely affect the surrounding neighborhood. Because the proposed use is less intense than 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

John Libertowski, Realtor, 1650 South Bend Ave, South Bend, IN 46617, served as petitioner.

INTERESTED PARTIES

One email was received in opposition to the petition.

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 ANDREW J HOFFMAN & MICHAEL J & JOHN T seeking a Special Exception for Retail Sales for property located at 1702 WESTERN AVE, City of South Bend, is sent to the Common Council with a favorable recommendation, and will issue written Findings of Fact.

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

- 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 – August 1, 2022

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried by vote, the findings of fact from the August 1, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes


Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried by vote, the minutes from the August 1, 2022 Board of Zoning Appeals meeting were approved.

Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried by vote, the minutes from the August 5, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business

4. Adjournment – 5:45 pm

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board