

# SOUTH BEND BOARD OF ZONING APPEALS

## MINUTES

Monday, October 3, 2022  
4:00 p.m.

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

### MEMBERS PRESENT:

Mark Burrell  
Kathy Schuth  
Caitlin Stevens

### MEMBERS ABSENT:

Kyle Copelin  
Kaine Kanczuzewski

### ALSO PRESENT:

Angela Smith  
Rachel Boyles  
Kate Bolze  
Jenna Throw

### PUBLIC HEARINGS:

- 1. The petition of MIKHAEL A BROWN seeking the following variance(s): 1) From the 3' maximum height for a fence that is less than 50% open in an established front and corner yard to 6', property located at 1802 HUEY ST. Zoned U1 – Urban Neighborhood 1.** *(Audio Position: 3:36)*

### STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The variance requested is the minimum necessary to allow for a privacy fence on the property. The proposed location of the fence is located at the maintenance boundary of the gas line. Any structure needs to be 3' away from a buried gas line, moving the fence to the north would create a practical difficulty. The fence is not proposed to go all the way to the sidewalk providing a setback similar to the existing garage.

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

### PETITIONER

Mikhael Brown, 2312 Cambridge Blvd, Fort Wayne, Indiana 46808 served as petitioner

### INTERESTED PARTIES

There was no one from the public to speak.

### PUBLIC COMMENT

There was no one from the public to speak.

### ACTION

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, a petition by MIKHAEL A BROWN seeking the following variances: 1) From

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

the 3' maximum height for a fence that is less than 50% open in an established front and corner yard to 6' was approved as presented, and will issue written Findings of Fact.

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

2. **The petition of DSN IRA LLC C/O JOSE NUNEZ seeking the following variance(s): 1) From the required location of a garage either at the 5' setback or not less than 18' from the alley to 8', property located at 2615 WESTMOOR ST. Zoned U1 – Urban Neighborhood 1.** *(Audio Position: 9:53)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: There are no practical difficulties or unique characteristics that support the variance requested. Minimum setbacks are established to set the bare minimum needed in order to protect the health, safety, and general welfare of the community. Granting a variance could potentially cause access issues of the alley, maintaining a minimum 5' or greater than 18' setback along the rear either allows for no parking or a full parking space. Replacing and expanding the garage into this setback does not meet the intent of the ordinance or the criteria for variance approval.

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

PETITIONER

Frank Agostino, Attorney at Law, 131 S Harris St, South Bend, Indiana 46619 served as petitioner and provided a supplemental packet of information to the board.

Jose Nunez, 1628 Portage Ave, South Bend, Indiana 46616 served as petitioner.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by DSN IRA LLC C/O JOSE NUNEZ seeking the following variances:

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

1) From the required location of a garage either at the 5' setback or not less than 18' from the alley to 8' was approved as presented, and will issue written Findings of Fact.

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

3. **The petition of SHAMROCK REALTY GROUP LLC seeking a Special Exception to allow a 1 unit dwelling, property located at 832 SOUTH BEND AVE. Zoned NC – Neighborhood Center.** *(Audio Position: 27:59)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Reactivating a vacant lot will provide more residents to the neighborhood which will increase safety and the general welfare of the community. This site has historically been nonresidential uses, however, given the size of the lot it would limit the type of nonresidential development. The proposed use is a use that will be the least likely to impact the surrounding neighborhood negatively. New construction that fits the scale of the current residential properties should strengthen nearby property values.

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

John Spaulding, Architect, 106 Lincolnway E, Mishawaka, Indiana 46554 served as petitioner.

INTERESTED PARTIES

Edward Jurkovic, 824 South Bend Ave, South Bend, Indiana 46617, spoke in opposition of the petition.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by SHAMROCK REALTY GROUP LLC seeking a Special Exception for 1 Unit Dwelling for property located at 832 SOUTH BEND AVE, City of South

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

Bend, is sent to the Common Council with a favorable recommendation, subject to a 5' setback from the south property line, and will issue written Findings of Fact.

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

- The petition of ALBERT AND ELLA WILLIAMS seeking a Special Exception to allow Vehicle Service, Major, and seeking the following variance(s): 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to none; and 3) from 1 streetscape tree for every 30' of frontage to none, property located at 506 OLIVE ST. Zoned NC – Neighborhood Center.** *(Audio Position: 39:33)*

### ACTION

As noone was present to serve as petitioner, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking a Special Exception for Vehicle Service, Major, and seeking the following variances(s): 1) to allow parking in the established front and corner yards; 2) from the 5' minimum parking area screening to none; and 3) from 1 streetscape tree for every 30' of frontage to none, for property located at 506 OLIVE ST, City of South Bend is tabled to the next meeting, December 5, 2022.

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

- The petition of CIVIL CITY OF SOUTH BEND seeking the modification of Written Commitments to allow the extension of the use as the Weather Amnesty site, property located at 510 MAIN ST. Zoned DT – Downtown. 018-3017-0618** *(Audio Position: 40:59)*

### STAFF REPORT

The modification proposal was introduced by Angela Smith.

### PETITIONER

Joseph Molnar, City of South Bend, 227 W Jefferson Blvd, Suite 1400S, South Bend, Indiana 46601 served as 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.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, a petition by CIVIL CITY OF SOUTH BEND seeking the following: a modification of Written Commitments to allow the extension of the use as the Weather Amnesty site was approved as presented, and will issue written Findings of Fact.

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

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – September 6, 2022

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried by vote, the findings of fact from the September 6, 2022 Board of Zoning Appeals meeting were approved.

2. Minutes – September 6, 2022

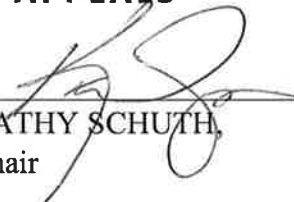
Upon a motion by Mark Burrell, being seconded by Caitling Stevens and unanimously carried by vote, the minutes from the September 6, 2022 Board of Zoning Appeals meeting were approved.

3. Other Business

4. Adjournment – 4:47

RESPECTFULLY SUBMITTED,

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

  
KATHY SCHUTH,  
Chair

ATTEST:

  
ANGELA M. SMITH,  
Secretary of the Board