

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Tuesday, January 3, 2023
4:00 p.m.

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

MEMBERS PRESENT:

Mark Burrell
Kaine Kanczuzewski
Kathy Schuth
Caitlin Stevens - Virtually

MEMBERS ABSENT:

Kyle Copelin

ALSO PRESENT:

Angela Smith
Rachel Boyles
Kate Bolze
Jenna Throw

ADMINISTRATIVE ITEMS

1. **Election of Officers**

(Audio Position: 00:39)

After careful consideration, the following actions were taken:

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, Kathy Schuth is nominated for and elected Chair of the Board of Zoning Appeals.

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

Upon a motion by Kaine Kanczuzewski, being seconded by Caitlin Stevens and unanimously carried, Mark Burrell is nominated for and elected Vice Chair of the Board of Zoning Appeals.

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

PUBLIC HEARINGS:

1. **The petition of SOUTH BEND REALTY LLC seeking the following variance(s): 1)**

From the 5' minimum side yard setback to 1', property located at 815 ST LOUIS BLVD. Zoned U1 Urban Neighborhood 1.

(Audio Position: 4:51)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties that prevent the petitioner from placing the accessory building in a code compliant location. The pattern of development

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in the area does not support the request. The petition does not meet the criteria for decision making. The use of the alley should be restored to allow for a code compliant location.

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

PETITIONER

Andy Howard, 6 Fairland Farm Rd, Kinderhook, NY 12106 presented virtually.

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 Kaine Kanczuzewski and unanimously carried, a petition by SOUTH BEND REALTY LLC seeking the following variances: 1) From the 5' minimum side yard setback to 1' was denied as presented, and will issue written Findings of Fact.

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

- 2. The petition of MICHAEL D & TERESA L HARDY seeking the following variance(s): 1) From the maximum 1383.3 sq.ft. for an accessory structure to 2400 sq.ft.; and 2) From the maximum 4 car capacity for all garages and carports to 5, property located at 825 POTTER POINT DR. Zoned S1 Suburban Neighborhood 1.**

(Audio Position: 23:14)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The 12 acre parcel is bound by a suburban residential development and US-31 Highway. The size of the property warrants consideration and relief from the strict application of the Ordinance.

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

PETITIONER

Terry Lang, Wightman Team, 715 S Michigan St, South Bend, IN 46601 presented virtually on behalf of the petitioner. Michael Hardy, 825 Potter Point Dr, South Bend, IN 46614 presented in person.

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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 Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by MICHAEL D & TERESA L HARDY seeking the following variances: 1) From the maximum 1383.3 sq.ft. for an accessory structure to 2400 sq.ft.; and 2) From the maximum 4 car capacity for all garages and carports to 5 was approved as presented, and will issue written Findings of Fact.

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

3. **The petition of HERMELINDA DE LA CRUZ and JOSE T REYES seeking the following variance(s): 1) From the maximum 1 detached accessory structure to 2; 2) From the 5' minimum side setback to 2' for the carport and 4' for the detached porch; 3) From the 5' minimum rear setback to 0'; 4) From the 1,216 maximum square feet for detached accessory structure to 1,565 square feet; and 5) To allow a garage door at a 0' setback, property located at 2115 MORRIS ST. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 30:56)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Setbacks are established to provided the minimum needed to insure adequate access to the property and space for maintenance of the structures. There are no practical difficulties that prevent the structures from being constructed in accordance with the Ordinance.

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

PETITIONER

Jose Reyes, 2115 Morris St, South Bend, IN presented virtually. His daughter, Rosa Reyes, of the same address, assisted virtually to translate.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

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ACTION

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 HERMELINDA DE LA CRUZ and JOSE T REYES seeking the following variances: 1) From the maximum 1 detached accessory structure to 2; 2) From the 5' minimum side setback to 2' for the carport and 4' for the detached porch; 3) From the 5' minimum rear setback to 0'; 4) From the 1,216 maximum square feet for detached accessory structure to 1,565 square feet; and 5) To allow a garage door at a 0' setback was denied as presented, and will issue written Findings of Fact.

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

4. **The petition of SHARK INVESTMENTS LLC seeking a Special Exception to allow minor vehicle service, property located at 1502 MIAMI RD. Zoned NC Neighborhood Center.** *(Audio Position: 48:04)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: Granting the Special Exception will allow for the reuse of a building that was originally built for automotive purposes. Although the Neighborhood Center Zoning District outlines pedestrian orientated development, the use of Minor Vehicle Service is an allowed Special Exception in the district for such instances. With some minor landscaping improvements, the building can be reactivated in a way that works well with the surrounding area.

Staff Recommendation: Staff recommends the Board send the Special Exception to the Common Council with a favorable recommendation.

PETITIONER

Harry Ortega, 156 Middle Island Rd, Medford, NY 11763, presented virtually.

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 Kaine Kanczuzewski and unanimously carried, a petition by SHARK INVESTMENTS LLC seeking a

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Special Exception for minor vehicle service for property located at 1502 MIAMI RD, 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 - Absent
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

5. **The petition of 7468 VORDEN PARKWAY LLC seeking a Special Exception to allow Industrial, Heavy, property located at 7468 AND 7686 VORDEN PKWY. Zoned I Industrial.** *(Audio Position: 54:25)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The proposed use is located in an industrial park. This is a suitable location for heavy industrial uses which should not negatively impact the broader community and should help recruit a new business to the city.

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

PETITIONER

George Lepeniotis, Krieg DeVault, 4101 Edison Lakes Parkway, Mishawaka, IN 46545, presented on behalf of the 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 Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by 7468 VORDEN PARKWAY LLC seeking a Special Exception for Heavy Industrial for property located at 7468 AND 7686 VORDEN PKWY, 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 - Absent
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

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ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – December 5, 2022

(Audio Position: 1:02:16)

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, the Findings of Fact from the December 5, 2022 meeting are approved.

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

2. Minutes – December 5, 2022

(Audio Position: 1:03:01)

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, the minutes from the December 5, 2022 meeting are approved.

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

3. Other Business

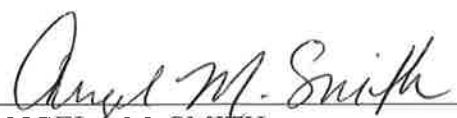
4. Adjournment – 5:03pm

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair of the Board

ATTEST:



ANGELA M. SMITH,
Secretary of the Board