

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, March 6, 2023
4:00 p.m.

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

MEMBERS PRESENT:

Mark Burrell
Kaine Kanczuzewski
Caitlin Stevens
Kathy Schuth

MEMBERS ABSENT:

Kyle Copelin

ALSO PRESENT:

Angela Smith
Rachel Boyles
Kari Myers
Kate Bolze
Jenna Throw
Tom Panowicz

PUBLIC HEARINGS:

- 1. The petition of TERRY VAN DUYNE seeking the following variance(s): 1) From the 48' maximum duplex width to 80'; and 2) From the maximum one curb cut per street frontage to two, property located at 626 LINDENWOOD DR. Zoned U3 Urban Neighborhood 3.** *(Audio Position: 03:50)*

STAFF REPORT

The staff report was presented by Anglea Smith.

Analysis: The proposed variances are consistent with the character of the area and the intent of the ordinance. Approving the variance will allow for the construction of a multi-unit dwelling consistent in scale with the surrounding neighborhood.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to reconfiguring the garage layout to the outside of the building to create separation between the driveways.

PETITIONER

Brett Routhier with Allen Edwin Homes, 795 Clyde Court, Byron Center, MI 49615
presented in person

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:

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Upon a motion by Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by TERRY VAN DUYNE seeking the following variances: 1) From the 48' maximum duplex width to 80'; and 2) From the maximum one curb cut per street frontage to two 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

- 2. The petition of BKMO2 LLC seeking the following variance(s): 1) From the 48' maximum duplex width to 80'; and 2) From the maximum one curb cut per street frontage to two, property located at 5010 BIRCHWOOD LN. Zoned U3 Urban Neighborhood 3.** *(Audio Position: 12:05)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The proposed variances are consistent with the character of the area and the intent of the ordinance. Approving the variance will allow for the construction of a multi-unit dwelling consistent in scale with the surrounding neighborhood.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variances as presented, subject to reconfiguring the garage layout to the outside of the building to create separation between the driveways.

PETITIONER

Brett Routhier with Allen Edwin Homes, 795 Clyde Court, Byron Center, MI 49615 presented in person

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 Caitlin Stevens and unanimously carried, a petition by BKMO2 LLC seeking the following variances: 1) From the 48' maximum duplex width to 80'; and 2) From the maximum one curb cut per street frontage to two was approved as presented, and will issue written Findings of Fact.

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

3. **The petition of BRIDGETT C CARPENTER seeking the following variance(s): 1) From the maximum 6' fence height in the established side yard to 7'-6", property located at 1715 SCOTT ST. Zoned U1 Urban Neighborhood 1. (Audio Position: 15:13)**

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 7'-6" fence in this location. The proposed fence is not consistent with the intent of the ordinances or the character of the area. If a Building permit was sought before the construction of the new fence, the applicant would have been aware of the zoning regulation

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

PETITIONER

Bridgett Carpenter, 1715 Scott St, South Bend, IN presented virtually.

INTERESTED PARTIES

Crystal Jones, 1717 Scott St, South Bend, IN emailed the board 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 Kaine Kanczuzewski, being seconded by Caitlin Stevens and unanimously carried, a petition by BRIDGETT C CARPENTER seeking the following variances: 1) From the maximum 6' fence height in the established side yard to 7'-6" was denied as presented, and will issue written Findings of Fact.

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

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4. **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 3120 sq. ft; and 2) from the maximum 4 car capacity for all garages and carports to 5, property located at 825 POTTER POINT DRIVE . Zoned S1 Suburban Neighborhood 1.**

(Audio Position: 22:00)

STAFF REPORT

The staff report was presented by Rachel Boyles.

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 Company, 715 S Michigan St, South Bend, IN presented in person on behalf of the petitioner.

Michael Hardy, 825 Potter Point Dr, South Bend, IN 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 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 3120 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

5. **The petition of RYAN & STEPHANIE DEBAILLIE seeking the following variance(s): 1) from the 3' maximum fence height in the established corner yard to 6', property located at 2101 MORRIS ST. Zoned U1 Urban Neighborhood 1. *(Audio Position: 28:31)***

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STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence in this location. The proposed fence is not consistent with the intent of the ordinances. If a Building permit was sought before the construction of the new fence, the applicant would have been aware of the zoning regulation.

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

PETITIONER

Ryan and Stphanie DeBaillie, 2101 Morris St, South Bend, IN presented in person.

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 RYAN & STEPHANIE DEBAILLIE seeking the following variances: 1) from the 3' maximum fence height in the established corner yard to 6' 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

6. **The petition of JJB HOMES LLC seeking a Special Exception to allow Restaurant, and seeking the following variance(s): 1) from the required 1 streetscape tree for every 30' of street frontage to none; and 2) from the required 1 shrub for every 5' of facade foundation landscaping to none, property located at 2621 MISHAWAKA AVE. Zoned UF Urban Neighborhood Flex.** *(Audio Position: 43:33)*

STAFF REPORT

The staff report was presented by Anglea Smith.

Analysis: The site had been used as a veterinary clinic for many years. Allowing the use to be reestablished on the commercial corridor will allow a vacant building to be rehabilitated into an active business. The area was developed in an Urban manner pushing the buildings closer to the property line, installation of code compliant landscaping reduces ADA compliance and safety of pedestrian traffic.

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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. The Staff recommends the Board approve the variances as presented.

PETITIONER

Jose and Alejandra Botello, 2621 Mishawaka Ave, South Bend, IN presented in person.

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 carried, a petition by JJB HOMES LLC seeking a Special Exception for Restaurant for property located at 2621 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
- Mark Burrell - Yes
- Kathy Schuth - Yes

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by JJB HOMES LLC seeking the following variances: 1) from the required 1 streetscape tree for every 30' of street frontage to none; and 2) from the required 1 shrub for every 5' of facade foundation landscaping to none 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

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ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact – February 6, 2023

(Audio Position: 51:30)

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried by vote, the Findings of Fact from the February 6, 2023 meeting are approved subject to the clarification proposed by Tom Panowicz to the paragraph on page 2, number 2, Conclusions of Law, in the Findings of Fact.

2. Minutes – February 6, 2023

(Audio Position: 54:14)

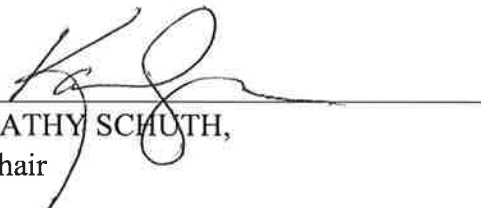
After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried by vote, the Minutes from the February 6, 2023 meeting are approved.

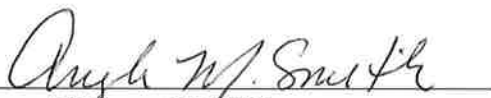
3. Other Business

4. Adjournment – 4:56 pm

RESPECTFULLY SUBMITTED,


KATHY SCHUTH,
Chair

ATTEST:


ANGELA M. SMITH,
Secretary of the Board

