

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, April 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

MEMBERS ABSENT:

Kyle Copelin

ALSO PRESENT:

Angela Smith
Kari Myers
Rachel Boyles
Kate Bolze
Jenna Throw

PUBLIC HEARINGS:

- 9-15. The petitions filed by LAMAR ADVERTISING COMPANY seeking variances for multiple properties.** *(Audio Position: 03:28)*

ACTION

After careful consideration, the following action was taken:

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, the petitions filed by LAMAR ADVERTISING COMPANY seeking variances for multiple properties were tabled as requested by the petitioner until the May 1, 2023 meeting.

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

Each individual petition with the motion can be found within these minutes in the order they were advertised in the agenda for this meeting.

- 1. The petition of YAKIRA MCLEOD seeking the following variance(s): 1) From the maximum one detached accessory structure to two, property located at 1021 and 1025 THOMAS ST . Zoned U1 Urban Neighborhood 1.** *(Audio Position: 03:57)*

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: There are no practical difficulties for the petitioner that would necessitate the additional accessory structure. The proposed variance is out of character for the area and not consistent with the intent of the Ordinance.

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

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

PETITIONER

Yakira McLeod, 1025 Thomas St, South Bend, IN presented in person.

INTERESTED PARTIES

There was no one from the public to speak, but a letter was received from the property owners of 1027 W Thomas, South Bend, IN 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 Mark Burrell and carried, a petition by YAKIRA MCLEOD seeking the following variances: 1) From the maximum one detached accessory structure to two was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - No
Kyle Copelin - Absent
Kaine Kanczuzewski -Yes
Mark Burrell -Yes
Kathy Schuth - Yes

- 2. The petition of KANKAKEE WETLANDS ORGANIC GARDENS INC seeking the following variance(s): 1) To allow an accessory structure on a lot without a primary structure; and 2) From the maximum one detached accessory structure to two, property located at 2618 DUNHAM ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 28:56)

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: There are no practical difficulties for the petitioner which would necessitate a second accessory structure at this location. The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property and the proposed accessory structure would not be consistent with the intent of the ordinance. The petitioner's property can still be secured by removing the existing structure and building new or adding on to the existing structure.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve variance 1) to allow an accessory structure on a lot without a primary structure, and; deny variance 2) for the second accessory structure.

PETITIONER

Judith Rubleske, president of Kankakee Wetlands Organic Gardens Inc, 515 S Meade St, South Bend, IN presented in person.

Mike Kruk, a member of the Board of Directors of Kankakee Wetlands Organic Gardens Inc 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 KANKAKEE WETLANDS ORGANIC GARDENS INC seeking the following variances: 1) To allow an accessory structure on a lot without a primary structure; was APPROVED as presented and 2) From the maximum one detached accessory structure to two was DENIED as presented, and will issue written Findings of Fact.

- Caitlin Stevens - Yes
- Kyle Copelin - No
- Kaine Kanczuzewski -Yes
- Mark Burrell -Yes
- Kathy Schuth - Yes

3. **The petition of DEV H12 LLC seeking the following variance(s): 1) From the 15' maximum sign height to 18'-4", property located at 2046 SOUTH BEND AVE. Zoned C Commercial.** *(Audio Position: 45:39)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The site is located on a busy commercial corridor, just past a significant curve. The proposed variance is not out of character for the area and meets the general intent of the Ordinance.

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

PETITIONER

James Masters, with the lawfirm Nemeth, Feeney, Masters, Campiti, 350 Columbia St, South Bend, IN presented in person 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:

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 DEV H12 LLC seeking the following variances: 1) From the 15' maximum sign height to 18'-4" 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

4. **The petition of CARL EVERETT seeking the following variance(s): 1) From the 3' maximum fence height in an established corner yard to 6', property located at 3202 PLEASANT ST. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 51:56)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There are no practical difficulties for the petitioner that would necessitate a 6' fence in this location. The proposed fence is not consistent with the intent of the ordinance.

The site is already elevated above the street. A code compliant fence could provide the security and privacy desired by the applicant.

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

PETITIONER

Carl Everett, 3202 Pleasant St, South Bend, IN presented in person.

INTERESTED PARTIES

Robin Goins, 1205 S 32nd St, South Bend, IN appeared in person to speak in favor 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 Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, a petition by CARL EVERETT seeking the following variances: 1) From the 3' maximum fence height in an 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

5. **The petition of BOYS & GIRLS CLUB OF ST JOSEPH COUNTY seeking the following variance(s): 1) To allow parking in the established front yard, property located at 502 SAMPLE. Zoned U3 Urban Neighborhood 3.** (Audio Position: 1:06:01)

Kaine Kanczuzewski recused himself.

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The parking currently exists in the established front yard. The variance will allow for a reconfiguration and the addition of a bus drop off area. The variance should reduce the impact to the surrounding properties by improving site circulation. When the site was developed, the parking lot was established legally under the active Zoning Ordinance at the time.

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

PETITIONER

Kaine Kanczuzewski, with Panzica Construction Group, 514 W LaSalle, South Bend, IN presented in person 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 Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, a petition by BOYS & GIRLS CLUB OF ST JOSEPH COUNTY seeking the following variances: 1) To allow parking in the established front yard was approved as presented, and will issue written Findings of Fact.

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

6. **The petition of RED TAIL PROPERTIES LLC seeking a Special Exception to allow Heavy Industrial, property located at 1306, 1330 HIGH ST, & 909 E BROADWAY ST. Zoned I Industrial.** (Audio Position: 1:12:26)

STAFF REPORT

The staff report was presented by Rachel Boyles.

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

Analysis: Heavy Industrial uses are not appropriate when adjacent to, or located within, a residential neighborhood. The area is largely residential with small scale commercial surrounding the immediate property

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 an unfavorable recommendation.

PETITIONER

Bryan Cook, 5308 Miami St, South Bend, IN presented in person.

INTERESTED PARTIES

Sherri Taylor, 730 Pennsylvania Ave, South Bend, IN appeared in person to speak in opposition of the petition.

Maddie Taylor, 732 Pennsylvania Ave, South Bend, IN appeared in person to speak in opposition of the petition.

Rahman Johnson, 728 Pennsylvania Ave, South Bend, IN sent an email and appeared in person to speak in opposition of the petition

Conrad Damian, 718 E Broadway appeared in person to speak in opposition of the petition. He also sent a letter as President of the Southeast Organized Area Residents, Inc, 1412 S Carroll St, South Bend, IN 46613 in opposition of the petition.

Shahir Rizk, LangLab LLC, 1302 High St, South Bend, IN appeared in person to speak in opposition of the petition

Evette and Terry Ford, 726 E Broadway appeared in person to speak in opposition of the petition

PETITIONER REBUTTAL

Bryan Cook gave rebuttal comments in response to statements made by the interested parties.

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 RED TAIL PROPERTIES LLC seeking a Special Exception for Heavy Industrial for property located at 1306, 1330 HIGH ST, & 909 E BROADWAY ST, City of South Bend, is sent to the Common Council with an unfavorable recommendation, and will issue written Findings of Fact.

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

- 7. The petition of REDDLINE PROPERTY LLC seeking a Special Exception to allow a 2 Unit Dwelling, property located at 439 DUNDEE ST. Zoned U1 Urban Neighborhood 1.**
(Audio Position: 1:43:35)

STAFF REPORT

The staff report was presented by Rachel Boyles.

Analysis: The conversion and rehab of a current one unit dwelling to a two unit dwelling will further complement the existing housing stock in the surrounding area and be visually indistinguishable from nearby one unit dwellings. The proposed use will provide more housing options for residents.

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

De Carlo Redding, Jr, with Reddline Property LLC, 439 Dundee 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 Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by REDDLINE PROPERTY LLC seeking a Special Exception for a 2 Unit Dwelling for property located at 439 DUNDEE 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 - Absent
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

- 8. The petition of JMJ GROUP LLC seeking a Special Exception to allow a Group Residence, and seeking the following variance(s): 1) to allow parking in the established corner yard, property located at 1602 MICHIGAN ST. Zoned NC Neighborhood Center.**
(Audio Position: 1:47:09)

STAFF REPORT

The staff report was presented by Angela Smith.

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

Analysis: Granting the Special Exception will allow for a residential use, which will prevent a vacant building from existing in the area. South Michigan St. is a commercial corridor with a mix of commercial intensities along the surrounding stretch. The property is currently zoned for multifamily use which would allow for an apartment complex. The dwelling is consistent with the character of the district in the housing style. When a Special Exception is requested it is understood that the whole site will be brought into conformance. The petitioner could utilize the parking provided at the rear of the site or the on street parking without needing to park in the corner/front yard.

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. The Staff recommends the Board deny the variance as presented.

PETITIONER

Clara Ross, 726 Cushing St, South Bend, IN presented in person.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

Conrad Damian, 718 E Broadway appeared in person to speak in favor of the petition

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 JMJ GROUP LLC seeking a Special Exception for a Group Residence for property located at 1602 MICHIGAN 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 - Absent
Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by JMJ GROUP LLC seeking the following variances: 1) to allow parking in the established corner yard 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

- 9. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft., property located at 1910 LINCOLNWAY. Zoned C Commercial.**

(Audio Position: 03:28)

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft. was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

- 10. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft.; 2) From the 750' minimum linear spacing between off-premise signs to 15'; 3) From the 300' minimum radial spacing between off-premise signs to 102'; and 4) From the 100' minimum radial spacing to a residential use or U3 District to 75', property located at 1072 LINCOLNWAY. Zoned C Commercial.**

(Audio Position: 03:28)

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft.; 2) From the 750' minimum linear spacing between off-premise signs to 15'; 3) From the 300' minimum radial spacing between off-premise signs to 102'; and 4) From the 100' minimum radial spacing to a residential use or U3 District to 75' was t tabled as requested by the petitioner until the May 1, 2023 meeting.

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

- 11. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 750' minimum linear spacing between off-premise signs to 450'; 2) From the 200' minimum linear spacing to a school to 0'; and 3) From the 100'**

minimum radial spacing to a residential use or U2 District to 30', property located at 1704 LINCOLNWAY. Zoned C Commercial. *(Audio Position: 03:28)*

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 750' minimum linear spacing between off-premise signs to 450'; 2) From the 200' minimum linear spacing to a school to 0'; and 3) From the 100' minimum radial spacing to a residential use or U2 District to 30' was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

12. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 750' minimum linear spacing between off-premise signs to 465', property located at 208 SAMPLE ST. Zoned C Commercial.

(Audio Position: 03:28)

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 750' minimum linear spacing between off-premise signs to 465' was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

13. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft.; and 2) From the 200' minimum linear spacing to residential use or U1 District to 0', property located at 2713 BENDIX DR. Zoned I Industrial.

(Audio Position: 03:28)

ACTION

After careful consideration, the following action was taken:

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

Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 300 sq.ft. maximum sign surface area for an off-premise sign to 494.5 sq.ft.; and 2) From the 200' minimum linear spacing to residential use or U1 District to 0' was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

- 14. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 200' minimum linear spacing to residential use or 21 District to 13'; 2) From the 100' minimum radial spacing to a residential use or S1 District to 13'; 3) From the 750' minimum linear spacing between off-premises signs to 0'; and 4) From the 300' minimum radial spacing between off-premise signs to 65', property located at 259 N LOGAN ST. Zoned C Commercial.** *(Audio Position: 03:28)*

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 200' minimum linear spacing to residential use or 21 District to 13'; 2) From the 100' minimum radial spacing to a residential use or S1 District to 13'; 3) From the 750' minimum linear spacing between off-premises signs to 0'; and 4) From the 300' minimum radial spacing between off-premise signs to 65' was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

- 15. The petition of LAMAR ADVERTISING COMPANY seeking the following variance(s): 1) From the 10' minimum front setback to 0', property located at 323 SHERIDAN ST. Zoned C Commercial.** *(Audio Position: 03:28)*

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 10' minimum front setback to 0' was tabled as requested by the petitioner until the May 1, 2023 meeting.

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

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

ITEMS NOT REQUIRING A PUBLIC HEARING

1. **Findings of Fact – March 6, 2023** *(Audio Position: 1:55:51)*
Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, the Findings of Fact from the March 6, 2023 Board of Zoning Appeals meeting were approved.

2. **Minutes – March 6, 2023** *(Audio Position: 1:56:11)*
Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, the Minutes from the March 6, 2023 Board of Zoning Appeals meeting were approved.

3. **Other Business**

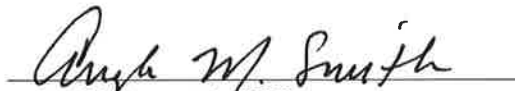
4. **Adjournment – 5:58pm**

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board