

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, May 1, 2023
4:00 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
Kari Myers
Kate Bolze
Jenna Throw

PUBLIC HEARINGS:

- 1-8. The petitions filed by LAMAR ADVERTISING COMPANY seeking variances for multiple properties.**

(Audio Position: Part 1: Audio Issues = no audio for this part)

ACTION

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 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 was withdrawn as presented.

Caitlin Stevens - Yes
Kyle Copelin - Yes
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 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: Part 1: Audio Issues = no audio for this part)

ACTION

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 LAMAR ADVERTISING COMPANY

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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 was withdrawn as presented.

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

- 2. 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: Part 1: Audio Issues = no audio for this part)

ACTION

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 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 withdrawn as presented.

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

- 3. 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: Part 1: Audio Issues = no audio for this part)

ACTION

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 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

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school to 0'; and 3) From the 100' minimum radial spacing to a residential use or U2 District to 30' was withdrawn as presented.

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

- 4. 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: Part 1: Audio Issues = no audio for this part)

ACTION

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 750' minimum linear spacing between off-premise signs to 465' was withdrawn as presented.

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

- 5. 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: Part 1: Audio Issues = no audio for this part)

ACTION

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 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 withdrawn as presented.

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

6. **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: Part 1: Audio Issues = no audio for this part)

ACTION

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 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 withdrawn as presented.

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

7. **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: Part 1: Audio Issues = no audio for this part)

ACTION

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 LAMAR ADVERTISING COMPANY seeking the following variances: 1) From the 10' minimum front setback to 0' was withdrawn as presented.

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

8. **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 3535 MCKINLEY AVE. Zoned C Commercial.**

(Audio Position: Part 1: Audio Issues = no audio for this part)

ACTION

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 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 withdrawn as presented.

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

Forward items on the agenda not requiring a public hearing to this portion of the meeting since items 9-14 on the agenda were asked to come to the meeting at 4:30pm due to the limited available space for the meeting.

(Audio Position: Part 1: Audio Issues = no audio for this part)

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kaine Kanczuzewski, being seconded by Caitlin Stevens and unanimously carried, the items on the agenda not requiring a public hearing are forwarded to this portion of the meeting.

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

The Findings of Fact and the Minutes from the April 3, 2023 meeting were approved. The motion for each can be found within these minutes in the order they were advertised in the agenda for this meeting.

The meeting was temporarily adjourned until 4:30pm.

- 9. The petition of CLAUDIA AND SAMUEL BAUTISTA seeking the following variance(s): 1) to allow vinyl siding where prohibited, property located at 2528 WESTERN AVE. Zoned NC Neighborhood Center.**

(Audio Position: Part 2: 03:44)

STAFF REPORT

The staff report was presented by Angela Smith.

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Analysis: There are no practical difficulties or unique characteristics that support the requested variance. Vinyl siding is not appropriate for the NC Neighborhood Center district.

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

PETITIONER

Miguel Abundio, 2119 S Michigan 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:

Upon a motion by Mark Burrell, being seconded by Kyle Copelin and unanimously carried, a petition by CLAUDIA AND SAMUEL BAUTISTA seeking the following variances: 1) to allow vinyl siding where prohibited was denied as presented, and will issue written Findings of Fact.

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

- 10. The petition of RALPH KOMASINSKI & KATHERINE HUMPHREYS seeking the following variance(s): 1) from the required 4' stoop depth to 1'6", property located at 510 IRONWOOD DR. Zoned S1 Suburban Neighborhood 1.**

(Audio Position: Part 2: 20:29)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The Petitioner's are planning an enclosed porch which will cover all but 1'6" of the existing stoop. The property has a side-load garage with the circular driveway and the existing 6' stoop terminates at the edge of the driveway. Due to the existing stoop terminating at the driveway, it is reasonable to allow the reduced stoop.

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

PETITIONER

Nick Donovan, with Peacock and Company, 1147 Mishawaka Ave, South Bend, IN presented virtually on behalf of the petitioner.

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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 Caitlin Stevens, being seconded by Kyle Copelin and unanimously carried, a petition by RALPH KOMASINSKI & KATHERINE HUMPHREYS seeking the following variances: 1) from the required 4' stoop depth to 1'6" 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

- 11. The petition of ST PATRICK CHURCH DIOCESE OF FT WAYNE seeking the following variance(s): 1) From the maximum 4' fence height in an established corner yard to 6'; and 2) To allow chain link fencing where prohibited, property located at 309 TAYLOR ST. Zoned NC Neighborhood Center.** *(Audio Position: Part 2: 28:35)*

STAFF REPORT

The staff report was presented by Angela Smith

Analysis: There are no practical difficulties or unique characteristics that support the requested variances. Wire fence material is not appropriate for either the zoning district or being placed in the front/corner yards of the property. A variance was granted in November, 2021, for the chain link fence with the understanding it would be temporary and either being removed or replaced with a code compliant fence by June 1, 2023.

The intersection of Wayne and Scott is not a heavily trafficked intersection. A 4' fence could be used to secure the property and meet the stated intent by the petitioner. A 4' fence is not uncommon for playgrounds or schools in urban areas.

Staff Recommendation: The staff recommends the Board deny the variance from the 4' maximum in a corner or front yard to 6'. The staff recommends the board approve the variance to allow a chain link fence, subject to the chain link being black vinyl coated.

PETITIONER

Emma Tormey, with STMA, 309 S Taylor St, South Bend, IN presented in person on behalf of the petitioner.

INTERESTED PARTIES

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There was no one from the public to speak.

PUBLIC COMMENT

21 letters of support were submitted at the time that the application was filed.

Claire Francisco, 54334 Maple Lane Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Zoe Ragland, 1825 Ribourde Dr, South Bend, IN appeared in person and spoke in favor of the petition.

Kirk Doran, 1429 Honan Dr, South Bend, IN appeared in person and spoke in favor of the petition.

Anthony Vasoli, 1141 Blaine Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Joan Downs-Krostenko, 849 Forest Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Danielle Robinson, 1106 N Saint Joseph St, South Bend IN appeared virtually and spoke in favor of the petition.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kyle Copelin, being seconded by Kaine Kanczuzewski and carried, a petition by ST PATRICK CHURCH DIOCESE OF FT WAYNE seeking the following variances: 1) From the maximum 4' fence height in an established corner yard to 6'; and 2) To allow chain link fencing where prohibited was approved as presented, subject to 1) 12' setback along Scott St and Wayne St, 2) the property's use as a school, and will issue written Findings of Fact.

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

Kathy Schuth recused herself from hearing petitions 12 and 13.

- 12. The petition of SUNCHOKE FARMS LLC seeking the following variance(s): 1) Use variance for urban agriculture, property located at 751 COTTAGE GROVE AVE. Zoned U1 Urban Neighborhood 1.** *(Audio Position: Part 2: 1:06:07)*

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Granting the Use Variance for Urban Agriculture will allow for the adaptive reuse of the vacant lot at this location.

Staff Recommendation: Based on the information provided prior to public hearing, the Staff recommends the Board send the Use Variance to the Common Council with a favorable recommendation subject to the following conditions: 1) adhere to

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the required U1 Urban Neighborhood 1 building setbacks; 2) site being brought into conformance and any outstanding issues being resolved; and 3) subject to the site being held to any future urban agriculture ordinance established.

PETITIONER

Susan Greutman with Sunchoke Farms, 824 Lindsey St, South Bend, presented in person.

INTERESTED PARTIES

Three emails from interested parties were received in support of the petition.

PUBLIC COMMENT

54 emails from the general public were received in support of the petition.

Janna Hunter-Bowman, 614 Cottage Grove Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Marcia Heck, 613 California Ave, South Bend, IN appeared virtually and spoke in favor of the petition.

Joan Downs-Krostenko, 849 Forest Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Anthony Vasoli, 1141 Blaine Ave, South Bend, IN appeared in person and spoke in favor of the petition.

Debrah Durall, 21677 Auten Rd, South Bend, IN appeared in person and spoke in favor of the petition.

Judith Rubleske, 515 S Meade St, South Bend, IN appeared in person and spoke in favor of the petition.

Nancy Stanton, 809 W North Shore, South Bend, IN appeared virtually and spoke in favor of the petition.

ACTION

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 SUNCHOKE FARMS LLC seeking a Use Variance for Urban Agriculture for property located at 751 COTTAGE GROVE AVE, City of South Bend, is sent to the Common Council with a favorable recommendation, subject to a 15' setback in the front and a 5' setback on all other sides, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski - Yes

Mark Burrell - Yes

Kathy Schuth - Recused

13. The petition of CIVIL CITY OF SOUTH BEND seeking the following variance(s):

1) use variance for urban agriculture, property located at 630 and 632 HARRISON ST. Zoned U2 Urban Neighborhood 2.

(Audio Position: Part 2: 1:25:31)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: Granting the Use Variance for Urban Agriculture will allow for the adaptive reuse of the vacant lots at this location.

Staff Recommendation: Based on the information provided prior to public hearing, the Staff recommends the Board send the Use Variance to the Common Council with a favorable recommendation subject to the following conditions: 1) adhere to the required U2 Urban Neighborhood 2 building setbacks; 2) site being brought into conformance and any outstanding issues being resolved; and 3) subject to the site being held to any future urban agriculture ordinance established.

PETITIONER

Susan Greutman with Sunchoke Farms, 824 Lindsey St, South Bend, presented in person on behalf of the petitioner.

INTERESTED PARTIES

One letter from an interested party was received in opposition to the petition.

Three emails from interested parties were received in support of the petition.

Janna Hunter-Bowman, 614 Cottage Grove Ave, South Bend, IN appeared in person and spoke in favor of the petition.

PUBLIC COMMENT

54 emails from the general public were received in support of the petition.

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 carried, a petition by CIVIL CITY OF SOUTH BEND seeking a Use Variance for Urban Agriculture for property located at 630 HARRISON ST and 632 HARRISON ST, City of South Bend, is sent to the Common Council with a favorable recommendation, subject to a 5' setback on all sides of the property, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Yes

Kaine Kanczuzewski - Yes

Mark Burrell - No

Kathy Schuth - Recused

- 14. The petition of ALBERT AND ELLA WILLIAMS seeking a Special Exception to allow Minor Vehicle Service, and seeking the following variance(s): 1) to allow parking in the front yard, property located at 506 OLIVE ST. Zoned NC Neighborhood Center.**

(Audio Position: Part 2: 1:41:03)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: While the Neighborhood Center Zoning District encourages pedestrian orientated development, the use of Major Vehicle Service is an allowed Special Exception in the district for instances such as this where the original intent of the building was for an automotive repair shop. Activation of a currently vacant building to its original use is consistent with the character of the district and surrounding area.

Variations which allow for the current configuration of the building to remain as is for the parking lot.

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. Staff recommends the Board approve the variance.

PETITIONER

Cleveland Brown, 1342 Brookfield, South Bend, IN, presented in person on behalf of the petitioner.

Ella Williams, 18220 Chipstead 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 Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking a Special Exception for Minor Vehicle Service for property located at 506 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

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Upon a motion by Mark Burrell, being seconded by Caitlin Stevens and unanimously carried, a petition by ALBERT AND ELLA WILLIAMS seeking the following variances: 1) to allow parking in the front 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

ITEMS NOT REQUIRING A PUBLIC HEARING

1. **Findings of Fact – April 3, 2023** *(Audio Position: Part 1: Audio Issues = no audio for this part)*
Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried by vote, the Findings of Fact from the April 3, 2023 Board of Zoning Appeals meeting are approved.
2. **Minutes – April 3, 2023** *(Audio Position: Part 1: Audio Issues = no audio for this part)*
Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried by vote, the Minutes from the April 3, 2023 Board of Zoning Appeals meeting are approved.
3. **Other Business**
4. **Adjournment – 6:20pm**

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board