

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, June 5, 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
Kate Bolze
Jenna Throw

PUBLIC HEARINGS:

- 1. The petition of RICHARD & EMILY SPAULDING seeking the following variance(s): 1) from the maximum lot width of 70' in the NNZO to 93.47', property located at 1225 and 1229 CORBY BLVD. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 03:14)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: There is no practical difficulty on the property that would warrant the variance request. The property is located in an overlay district which intentionally adopted a maximum lot width in order to avoid the suburbanization of their neighborhood. Approving a variance to allow a lot to be greater than the 70' maximum would be detrimental to future development of the area.

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

PETITIONER

Emily and Richard Spaulding, 1225/1229 Corby Blvd, South Bend, IN presented in person.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

Two letters were received in opposition of the petition.

Bill Stenz, 1020 E Colfax, South Bend, IN appeared in person and spoke in opposition of the petition.

REBUTTAL

Emily and Richard Spaulding provided rebuttal to the public comments

ACTION

After careful consideration, the following action was taken:

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Upon a motion by Kaine Kanczuzewski, being seconded by Caitlin Stevens and unanimously carried, a petition by RICHARD & EMILY SPAULDING seeking the following variances: 1) from the maximum lot width of 70' in the NNZO to 93.47' 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 RJ & L LANDSCAPING seeking the following variance(s): 1) to allow an accessory structure without a primary, property located at 501 and 509 DUNDEE ST and the vacant lot north and adjacent to 509 Dundee. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 22:27)

PETITIONER

The petitioner was not in attendance in person or virtually at the time the petition was to be heard

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 RJ & L LANDSCAPING seeking the following variances: 1) to allow an accessory structure without a primary was tabled to be heard after petition 12 to give the petitioner time to appear.

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

3. **The petition of AARON W & JAMIE L DECOCKER seeking the following variance(s): 1) From the 3' maximum fence height in the established corner yard to 6', property located at 1204 ALTGELD ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 28:09)

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.

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PETITIONER

Aaron DeCocker, 1204 Altgeld 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 Mark Burrell and carried, a petition by AARON W & JAMIE L DECOCKER seeking the following variances: 1) From the 3' maximum fence height in the established rear/corner yard to 6' was approved as presented, subject to a 10' setback from the property line along S Marine St, and will issue written Findings of Fact.

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

4. **The petition of LIFE TREATMENT CENTERS INC seeking the following variance(s): 1) from the minimum 50% visible light transmittance to 48%, property located at 1402 MICHIGAN ST. Zoned NC Neighborhood Center.**

(Audio Position: 45:00)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: The windows being replaced are on the upper floor of the building. The variance requested is only slightly less than what is required by the Ordinance. The difference will be indistinguishable to the public and will still allow for sufficient light transmittance consistent with the intent of the Ordinance.

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

PETITIONER

Jonathan Rios, 1258 E Colfax, South Bend, IN presented virtually 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 Caitlin Stevens and unanimously carried, a petition by LIFE TREATMENT CENTERS INC seeking the following variances: 1) from the minimum 50% visible light transmittance to 48% 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 JOHN R MCCULLUM seeking the following variance(s): 1) to allow parking in the established corner yard; 2) from the minimum 5' setback behind building facade to 6' from the property line on the south; and 3) from the 24' minimum drive aisle width to 22', property located at 324 and 328 OLIVE ST. Zoned NC Neighborhood Center.** *(Audio Position: 50:21)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: The variances will allow for the redevelopment of the site in a way that will benefit the neighborhood. Activation of a currently vacant building to a new use is consistent with the character of the district and surrounding area. Though parking is not required, providing some off-street parking would be practical for the business.

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

PETITIONER

Chester Gamble, 823 Academy Rd, Culver, 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 Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by JOHN R MCCULLUM seeking the following variances: 1) to allow parking in the established corner yard; 2) from the minimum 5' setback behind building facade to 6' from the property line on the

south; and 3) from the 24' minimum drive aisle width to 22' was approved as presented, and will issue written Findings of Fact.

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

- 6. The petition of GLC PORTAGE PRAIRIE LLC seeking the following variance(s):
1) to allow an accessory structure in the established front yard, property located at
5448 Dylan Drive. Zoned I Industrial.**

(Audio Position: 55:58)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: The proposed variance will allow for the construction of a secured employee entrance as required by the Federal Government contract. While technically a building, the structure is open sided and not out of character for the industrial area in which it is located.

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

PETITIONER

Chris Godlewski, Abonmarche, 315 W Jefferson, 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 Kaine Kancuzewski and unanimously carried, a petition by GLC PORTAGE PRAIRIE LLC seeking the following variances: 1) to allow an accessory structure in the established front yard was approved as presented, and will issue written Findings of Fact.

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

7. **The petition of HP MARIETTA STORAGE LLC seeking the following variance(s): 1) to allow standard, fluted, or split face concrete masonry units (CMUs) where prohibited., property located at 851 MARIETTA ST. Zoned I Industrial.**

(Audio Position: 1:01:19)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The petitioner states that due to supply chain issues the specified designer block was not available. The variance would allow the masonry to be covered with a mural instead of a traditional material, creating a more vibrant facade.

Staff Recommendation: Based on the information provided prior to the public hearing, the Staff recommends the Board approve the variance as requested, subject to a City approved mural being installed over the CMU.

PETITIONER

Paul Phair, Holladay Properties, 3454 Douglas Rd, Suite 250, South Bend, IN presented in person on behalf of the petitioner and provided a document with renderings of potential murals.

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 Kancuzewski and unanimously carried, a petition by HP MARIETTA STORAGE LLC seeking the following variances: 1) to allow standard, fluted, or split face concrete masonry units (CMUs) where prohibited was approved as presented, subject to a city approved mural over the CMU, and will issue written Findings of Fact.

Caitlin Stevens - Yes

Kyle Copelin - Absent

Kaine Kancuzewski -Yes

Mark Burrell -Yes

Kathy Schuth - Yes

8. **The petition of UNIVERSITY OF NOTRE DAME DU LAC seeking the following variance(s): 1) from the 20' minimum rear yard setback to 10', property located at 1007 and 1011 HOWARD ST. Zoned NC Neighborhood Center.**

(Audio Position: 1:07:47)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The variance requested is appropriate for the area and is consistent with the intent of the Ordinance. The petitioner owns the adjacent property to the north and plans to incorporate the property into this development,

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

PETITIONER

Wayne Richardson, Bertsch-Frank & Associates, 811 Lawrence Dr, Fort Wayne, 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 Kaine Kanczuzewski and carried, a petition by UNIVERSITY OF NOTRE DAME DU LAC seeking the following variances: 1) from the 20' minimum rear yard setback to 10' was denied as presented, and will issue written Findings of Fact.

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

- 9. The petition of ROSE MWANGI seeking a Use Variance to allow Urban Agriculture, and seeking the following variance(s): 1) to allow the keeping of chickens on a lot without a 1 unit or 2 unit dwelling, property located at 1436 BOWMAN ST. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 1:39:09)

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. Approving the variance for chickens on a lot without a one or two unit dwelling would set a precedent whereby allowing owners of chickens to not live on site and tend the chickens.

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 site adhering to the required U1 Urban Neighborhood 1 building setbacks. The Staff recommends the Board deny

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the variance to allow keeping chickens on a lot without a one or two unit dwelling.

PETITIONER

Rose Mwangi, 1428 E Bowman 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 Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by ROSE MWANGI seeking a Use Variance for Urban Agriculture for property located at 1436 BOWMAN 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 Caitlin Stevens and unanimously carried, a petition by ROSE MWANGI seeking the following variances: 1) to allow the keeping of chickens on a lot without a 1 unit or 2 unit dwelling 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

- 10. The petition of SALAMEH RAMADAN AND TAMI-LYN seeking a Special Exception to allow Vehicle Sales or Rental, property located at 3003 LINCOLNWAY. Zoned NC Neighborhood Center.** *(Audio Position: 1:48:51)*

PETITIONER

The petitioner was not in attendance in person or virtually at the time the petition was to be heard

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 SALAMEH RAMADAN AND TAMI-LYN seeking a Special Exception for Vehicle Sales or Rental for property located at 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY, City of South Bend was tabled until the next meeting, August 7, 2023 due to the petitioner not being in attendance to speak on the petition.

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

11. The petition of FARGO LLC seeking a Special Exception to allow Major Vehicle Service, property located at 1127, 1131 and 1135 WESTERN AVE. Zoned NC Neighborhood Center.

(Audio Position: 1:52:51)

STAFF REPORT

The staff report was presented by Angela Smith.

Analysis: The use, as proposed, is not consistent with the intent or regulations of the Ordinances. If the site is brought up to the current development standards as required by the Ordinance and a commitment was placed on the property for no outdoor storage, the use and development of the property would be compatible with the surrounding area and intent of the Comprehensive Plan.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board send the petition to the Common Council with a favorable recommendation subject to a Written Commitment for no outdoor storage of vehicles.

PETITIONER

David Farhan, Fargo LLC, PO Box 11664, South Bend, IN 46634 presented in person.

INTERESTED PARTIES

Greg (?), Commander of the Army Navy Union, 1121 W Western Ave, South Bend, IN spoke 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 Kaine Kanczuzewski, being seconded by Mark Burrell and unanimously carried, a petition by FARGO LLC seeking a Special Exception for Major Vehicle Service for property located at 1127, 1131 and 1135 WESTERN

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AVE, City of South Bend, is sent to the Common Council with a favorable recommendation, subject to a written commitment for no outdoor storage of vehicles, and will issue written Findings of Fact.

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

12. The petition of CIVIL CITY OF SOUTH BEND seeking a Special Exception to allow a Fire Station, and seeking the following variance(s): 1) from the 15' minimum corner setback to 10' along York Rd; and 2) from the 20' minimum side parking setback to 15' along the south and 0' on the east , property located at 2402 TWYCKENHAM DR. Zoned S1 Suburban Neighborhood 1. (Audio Position: 2:05:38)

STAFF REPORT

The staff report was presented by Angela Smith.
 Analysis: The proposed Special Exception and vaiances will allow for the reconstruction of the existing fire station, which offers a critical service to the neighborhood and larger community.
 Staff Recommendation: Based on the information available 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 approve the variances as requested.

PETITIONER

Mike Danch, Danch Harner & Associates, 1643 Commerce Dr, 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 Caitlin Stevens and unanimously carried, a petition by CIVIL CITY OF SOUTH BEND seeking a Special Exception for a Fire Station for property located at 2402 TWYCKENHAM DR, 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

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Kaine Kanczuzewski - Yes
Mark Burrell - Yes
Kathy Schuth - Yes

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 variances: 1) from the 15' minimum corner setback to 10' along York Rd; and 2) from the 20' minimum side parking setback to 15' along the south and 0' on the east 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 RJ & L LANDSCAPING seeking the following variance(s): 1) to allow an accessory structure without a primary, property located at 501 and 509 DUNDEE ST and the vacant lot north and adjacent to 509 Dundee. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 2:17:09)

PETITIONER

The petitioner was not in attendance in person or virtually at the time the petition was to be heard

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 RJ & L LANDSCAPING seeking the following variances: 1) to allow an accessory structure without a primary is tabled until the next meeting, August 7, 2023 due to the petitioner not being in attendance to speak on the petition.

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 – May 1, 2023**

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, the Findings of Fact from the May 1, 2023 Board of Zoning Appeals meeting were approved.

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2. Minutes – May 1, 2023

Upon a motion by Caitlin Stevens, being seconded by Mark Burrell and unanimously carried, the minutes from the May 1, 2023 Board of Zoning Appeals meeting were approved.

3. Other Business

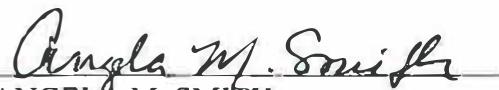
4. Adjournment – 6:17pm

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board