

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, August 7, 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

MEMBERS ABSENT:

Caitlin Stevens

ALSO PRESENT:

Michael Divita
Kari Myers
Kate Bolze
Jenna Throw

PUBLIC HEARINGS:

- 1. 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: 04:56)

Mark Burrell recused himself from hearing this petition

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: There are no practical difficulties for the petitioner that would necessitate fencing at this location. The proposed fence is not consistent with the intent of the ordinance nor is parking of commercial vehicles in the U1 district. Fencing in residentially zoned property to park company vehicles is not an allowed nor appropriate use in the neighborhood.

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

PETITIONER

Julio Rios Alcantar, owner of RJ & L Landscaping, 521 S Dundee St, South Bend, IN 46619 presented in person with Father Ryan Pietrocarlo, of St. Adalbert's Church, translating.

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 Kyle Copelin and unanimously carried, a petition by RJ & L LANDSCAPING seeking the

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

following variances: 1) to allow an accessory structure without a primary was denied as presented, and will issue written Findings of Fact.

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

- 2. The petition of ECO INDUSTRIES LLC seeking the following variance(s): 1) to allow an accessory structure (fence) without a primary building. ; 2) to allow the fence to be topped with barbed wire in all yards; and ; and 3) from the required sidewalk along all street frontages to none, property located at 0 AMERITECH DR. Zoned I Industrial.**

(Audio Position: 11:45)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: Allowing a fence on the lot to secure the parking lot is consistent with the Ordinance. However, allowing bared wire on top is not appropriate in the City, except in specific instances. As part of the complete streets policy, any site that redevelops is required to install sidewalk, regardless of the existence or lack thereof of adjacent sidewalks. As parcels continue to redevelop, sidewalk gaps will continue to be filled.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the Board approve variance #1 to allow for the accessory without a primary, and deny variances #2 and #3.

PETITIONER

David Hager from PVE, LLC, 111 Stanford Rd, Pittsburgh, PA, 15214 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 carried, a petition by ECO INDUSTRIES LLC seeking the following variance: 1) to allow an accessory structure (fence) without a primary building was approved as presented, and the following variances; 2) to allow the fence to be topped with barbed wire in all yards; and 3) from the required sidewalk along all street frontages to none were denied as presented, and will issue written Findings of Fact.

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

3. **The petition of GERALD WELCH seeking the following variance(s): 1) from the 3' maximum fence height in the front and corner yard to 6'; and 2) to allow an accessory building in the established front and corner yard, property located at 902 and 912 MERRILL CT. Zoned U3 Urban Neighborhood 3.** *(Audio Position: 22:55)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: There are no practical difficulties for the petitioner which would necessitate a 6' fence or shed in this location. The proposed fence and shed are not consistent with the intent of the ordinance. There is nothing preventing both the fence and the shed being installed in conformance of the zoning ordinance.

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

PETITIONER

Gerald Welch, 916 Merrill Ct, 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 Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by GERALD WELCH seeking the following variance: 1) from the 3' maximum fence height in the front and corner yard to 6' was approved subject to the fence being inline with the front of the building along Merrill Ct and setback 15' along Lindenwood Dr; and the following variance: 2) to allow an accessory building in the established front and corner yard was denied as presented, and will issue written Findings of Fact.

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

4. **The petition of UNITED CHURCH OF CHRIST ZION CHURCH seeking the following variance(s): 1) from the 32 sq.ft. maximum sign area to 88 sq.ft.; and 2) from the 8' maximum sign height to 12'-1", property located at Northeast corner of St. Louis and Wayne. Zoned NC Neighborhood Center.** *(Audio Position: 46:41)*

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The majority of the sign work was routine maintenance. The proposed variance will allow for a small portion of the sign not considered routine maintenance to be updated as well.

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

PETITIONER

Doug Merritt, with US Signcrafters, 216 Lincolnway E, Osceola, IN 46561 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 Kyle Copelin, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by UNITED CHURCH OF CHRIST ZION CHURCH seeking the following variances: 1) from the 32 sq.ft. maximum sign area to 88 sq.ft.; and 2) from the 8' maximum sign height to 12'-1" was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Absent

Kyle Copelin - Yes

Kaine Kanczuzewski - Yes

Mark Burrell - Yes

Kathy Schuth - Yes

5. **The petition of NEIL G WARRELL AND JESSICA STUTTS-WARRELL seeking the following variance(s): 1) from the 3' maximum fence height in the established corner yard to 6', property located at 3808 RAINBOW DR. Zoned S1 Suburban Neighborhood 1.** *(Audio Position: 50:59)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: Due to the topography of the rear yard, approving a privacy fence in the established corner yard with a 24' setback from Viking Drive would allow the property owner adequate use of the lot while meeting 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

Neil Warrell, 3808 Rainbow Dr, 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 NEIL G WARRELL AND JESSICA STUTTS-WARRELL seeking the following variances: 1) from the 3' maximum fence height in the established corner yard to 6' was approved as presented, and will issue written Findings of Fact.

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

6. **The petition of BOYS & GIRLS CLUB OF ST. JOSEPH COUNTY seeking the following variance(s): 1) from the 8' total maximum sign height to 10', property located at 502 SAMPLE. Zoned U3 Urban Neighborhood 3.** *(Audio Position: 57:16)*

Kaine Kanczuzewski recused himself from hearing this petition.

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The site is located along a busy corridor surrounded by industrial and commercial properties. 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 hearing, the Staff recommends the Board approve the variance as requested.

PETITIONER

Lauren Overmyer, from Vanadco Signs, 17501 10B Rd, Plymouth, IN 46563 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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by BOYS & GIRLS CLUB OF ST JOSEPH COUNTY seeking the following variances: 1) from the 8' total maximum sign height to 10' was approved as presented, and will issue written Findings of Fact.

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

7. **The petition of EFFIE GROVES seeking the following variance(s): 1) from the maximum 3' fence height to 6' in the established corner yard, property located at 1509 CARROLL ST and 240 HANEY AVE. Zoned U1 Urban Neighborhood 1.**

(Audio Position: 1:01:52)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: Due to the location of the existing home along with the adjacent lot, approving a section of privacy fence in the established corner yard subject to a 15' setback from Haney Avenue would allow the property owner adequate use of the lot while meeting the intent of the Ordinance.

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 15' setback from Haney Avenue property line.

PETITIONER

Effie and Sheldon Groves, 1509 Carroll 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 EFFIE GROVES seeking the following variances: 1) from the maximum 3' fence height to 6' in the established corner yard was approved as presented, subject to the privacy fence only being erected along the property line of 240 Haney Ave beside the vacant lot and setback 15' from the Haney Ave property line, and will issue written Findings of Fact.

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

- 8. The petition of JAMES CHAMPER & SONDRAL CHAMPER seeking the following variance(s): 1) from the maximum 1 detached accessory structure to 2; and 2) from the 5' minimum rear yard setback to 0', property located at 1708 ADAMS ST. Zoned S1 Suburban Neighborhood 1.** *(Audio Position: 1:10:07)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: There are no practical difficulties for the petitioner that would necessitate 1) an additional accessory structure; and 2) a 0' rear yard setback for the accessory structure. The request is 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 variances as requested.

PETITIONER

Jim and Sondra Champer, 1708 Adams St, South Bend, IN presented in person.

INTERESTED PARTIES

Robert James, 1704 Adams St, 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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by JAMES CHAMPER & SONDRAL CHAMPER seeking the following variances: 1) from the maximum 1 detached accessory structure to 2; and 2) from the 5' minimum rear yard setback to 0' was denied as presented, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Kyle Copelin - Yes
Kaine Kanczuzewski - Yes

Mark Burrell - Yes

Kathy Schuth - Yes

9. **The petition of ST ADALBERTS PARISH seeking the following variance(s): 1) from the 4' maximum fence height in the established front and corner yard to 6', property located at 2400 HURON ST (519 S. Olive Street). Zoned U3 Urban Neighborhood 3.**

(Audio Position: 1:41:41)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: There are no practical difficulties or unique characteristics that support the requested variance. The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property. The property can still be secured with a shorter code compliant fence that does not prohibit security of the property. Aesthetic preference is not a practical difficulty.

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

PETITIONER

Father Ryan Pietrocarlo, 2420 Huron St, South Bend, IN presented in person.

INTERESTED PARTIES

Michael Kruk, 449 S Phillipa St, South Bend, IN appeared in person and spoke in favor of the petition.

PUBLIC COMMENT

Sheila Niezgodski, 4942 Scenic Dr, South Bend, IN appeared in person 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 ADALBERTS PARISH seeking the following variances: 1) from the 4' maximum fence height in the established front and corner yard to 6' was approved as presented, subject to the property being used for educational purposes, and will issue written Findings of Fact.

Caitlin Stevens - Absent

Kyle Copelin - Yes

Kaine Kanczuzewski - Yes

Mark Burrell - No

Kathy Schuth - Yes

10. **The petition of NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND seeking the following variance(s): 1) to allow an accessory use and structure without a**

**primary building, property located at 2301 DUBAIL AVE. Zoned U1 Urban
Neighborhood 1.**

(Audio Position: 2:01:47)

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 NEW LIFE FELLOWSHIP MINISTRY OF SOUTH BEND seeking the following variances: 1) to allow an accessory use and structure without a primary building was tabled as presented.

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

11. The petition of OAKLAWN PSYCHIATRIC CENTER INC seeking the following variance(s): 1) to allow parking in the established front and corner yard, property located at 425 MADISON. Zoned DT Downtown.

(Audio Position: 2:02:11)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The property has developed with the buildings adjacent to the street, leaving the only area for off-street parking in the established front and corner yard. With the proper screening, the impact of the variance can be minimized.

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

PETITIONER

Andrew Cunningham, of Jones Petrie Rafinski, 325 S Lafayette Blvd, South Bend, IN 46601 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 Kyle Copelin and unanimously carried, a petition by OAKLAWN PSYCHIATRIC CENTER INC seeking the following variances: 1) to allow parking in the established front and corner yard was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Absent

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

- 12. The petition of SUR LLC DBA CHIMICHURRI RESTAURANT seeking the following variance(s): 1) From the 10' maximum building setback to 38'; and 2) from the 60% minimum facade transparency to 35%, property located at 601 JEFFERSON BLVD. Zoned DT Downtown.**

(Audio Position: 2:08:03)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The existing building is a small commercial kitchen with no indoor seating.

The requested variance would allow for the minor expansion to add space for necessary equipment. Its location behind the main outdoor seating area minimizes the impact of the setback and transparency requested.

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

PETITIONER

Velvet Canada, 401 E Colfax Ave, Suite 180, 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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by SUR LLC DBA CHIMICHURRI RESTAURANT seeking the following variances: 1) From the 10' maximum building setback to 38'; and 2) from the 60% minimum facade transparency to 35% was approved as presented, and will issue written Findings of Fact.

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

- 13. The petition of CAREER ACADEMY OF SOUTH BEND INC seeking the following variance(s): 1) to allow a curb cut where alley access is available; 2) to allow an accessory structure in the established front or corner yard; 3) from the 12'**

maximum front and corner setback to 41' on Lafayette, 38' on Madison, and 169' on Marion; 4) from the 20% minimum ground floor transparency to 0% on the south elevation; 5) to allow loading in the established corner yard; 6) to allow loading and unloading activity to encroach upon a public right-of-way; 7) to allow trucks to back from or into a public street; 8) from the maximum 32' vertical articulation on street facing facades to none; and 9) from the required horizontal articulation to none, property located at 305 MADISON ST. Zoned NC Neighborhood Center.

(Audio Position: 2:13:35)

Kaine Kanczuzewski recused himself from hearing this petition.

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: This project is essentially a building retrofit with minor additions. The requested variances would allow for the change in civic use.

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

PETITIONER

Thomas or Philip Panzica, from Panzica Construction Group, 416 E Monroe St, Suite 320, South Bend, IN 46601 presented in person on behalf of the petitioner.

INTERESTED PARTIES

Sarah Hill, 316 W Marion St, South Bend, IN appeared virtually and spoke in opposition of the petition, specifically the variance regarding setbacks.

PUBLIC COMMENT

There was no one from the public to speak.

REBUTTAL

Thomas or Philip Panzica, from Panzica Construction Group, 416 E Monroe St, Suite 320, South Bend, IN 46601 provided rebuttal comments.

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 CAREER ACADEMY OF SOUTH BEND INC seeking the following variances: 1) to allow a curb cut where alley access is available; 2) to allow an accessory structure in the established front or corner yard; 3) from the 12' maximum front and corner setback to 41' on Lafayette, 38' on Madison, and 169' on Marion; 4) from the 20% minimum ground floor transparency to 0% on the south elevation; 5) to allow loading in the established corner yard; 6) to allow loading and unloading activity to encroach upon a public right-of-way; 7) to allow trucks to back from or into a public street; 8) from the maximum 32' vertical articulation on street facing facades to none; and 9) from

the required horizontal articulation to none was approved as presented, and will issue written Findings of Fact.

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

14. The petition of SALAMEH RAMADAN AND TAMI-LYN seeking a Special Exception to allow Vehicle Sales or Rental, property located at 3003 LINCOLNWAY and the LOT WEST of 3003 LINCOLNWAY. Zoned NC Neighborhood Center.

(Audio Position: 2:30:14)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: The proposed use as a vehicle rental facility is compatible with the surrounding area. The site is in close proximity to the Bendix node which is occupied by commercial and industrial uses. The site will be brought up to the current standards which will improve traffic safety, landscaping, and other site conditions.

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.

PETITIONER

Terry Vaughn, 2506 Bergen 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 Kyle Copelin, 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, is sent to the Common Council with a favorable recommendation, and will issue written Findings of Fact.

Caitlin Stevens - Absent
Kyle Copelin - Yes
Kaine Kanczuzewski - Yes

Mark Burrell - Yes
Kathy Schuth - Yes

15. The petition of RONALD E KOEHLER seeking a Special Exception to allow a Group Residence, property located at 1044 LINCOLNWAY. Zoned U3 Urban Neighborhood 3.

(Audio Position: 2:34:54)

STAFF REPORT

The staff report was presented by Michael Divita.

Analysis: Lincolnway West has a mix of commercial and industrial uses of varying intensity 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.

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 subject to a limit of one person per bedroom.

PETITIONER

Heather Weisinger, property manager, 519 S Russell Ave, Mishawaka, IN and Ronald Koehler, 59050 Clover Rd, Mishawaka, 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 Kyle Copelin, being seconded by Mark Burrell and unanimously carried, a petition by RONALD E KOEHLER seeking a Special Exception for a Group Residence for property located at 1044 LINCOLNWAY, City of South Bend, is sent to the Common Council with a favorable recommendation, subject to no more than one person or family shall be permitted per bedroom, and will issue written Findings of Fact.

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

ITEMS NOT REQUIRING A PUBLIC HEARING

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

1. Findings of Fact - June 5, 2023

(Audio Position: 2:40:13)

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, the findings of fact from the June 5, 2022 South Bend Board of Zoning Appeals meeting were approved.

2. Minutes - June 5, 2023


(Audio Position: 2:40:39)

Upon a motion by Mark Burrell, being seconded by Kaine Kanczuzewski and unanimously carried, the minutes from the June 5, 2022 South Bend Board of Zoning Appeals meeting were approved.

3. Other Business

4. Adjournment

RESPECTFULLY SUBMITTED,



KATHY SCHUTH,
Chair

ATTEST:



ANGELA M. SMITH,
Secretary of the Board