

SOUTH BEND BOARD OF ZONING APPEALS

MINUTES

Monday, May 6, 2024
4:00 p.m.

7th Floor, County Commissioner's Conference Room
County-City Building, South Bend, IN

MEMBERS PRESENT:

Mark Burrell
Francisco Fotia
Kaine Kanczuzewski
Kathy Schuth
Caitlin Stevens

ALSO PRESENT:

Michael Divita
Kari Myers
Amani Morrell
Kate Bolze
Jenna Throw

PUBLIC HEARINGS:

1. **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 Vacant Lot at Southwest Corner of Dubail Ave and Phillipa St. Zoned U1 Urban Neighborhood 1.** *(Audio Position: 0:02:53)*

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: While staff does not typically support a fence on a lot without a primary structure, the need to provide a secure environment for the future playground on the property not directly connected with the child care facility creates a practical difficulty.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance to allow a 6' chain link fence around the playground area subject to the fence being an accessory use to the adjacent child care facility.

PETITIONER

Charles Harris, Pastor at New Life Fellowship Ministry, 2301 W Dubail St, South Bend, IN appeared in person to present.

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 Frank Fotia, being seconded by Kaine Kanczuzewski 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 approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Yes

- 2. The petition of KATHLEEN M DELNAY seeking the following variance(s): 1) from the minimum rear yard setback of 25' to 18' for a deck above 30", property located at 4143 SPRING HILL CT. Zoned S1 Suburban Neighborhood 1.**

(Audio Position: 0:11:51)

STAFF REPORT

The staff report was presented by Kari Myers.

Analysis: The petitioner is requesting to replace an existing 14' X 14' deck that encroaches 7' into the rear setback. The Zoning Ordinance permits a deck 30" in height or less to encroach into the setback, however, a 30" deck is not practical in this situation as the deck provides ingress/egress from a sliding glass door on the split-level home.

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

PETITIONER

Kathleen Delnay, 4143 Spring Hill Ct, South Bend, IN, appeared in person to present.

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 Kathy Schuth, being seconded by Caitlin Stevens and unanimously carried, a petition by KATHLEEN M DELNAY seeking the following variances: 1) from the minimum rear yard setback of 25' to 18' for a deck above 30" was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Yes

3. **The petition of CULTIVATE CULINARY SCHOOL AND CATERING INC seeking the following variance(s): 1) from the minimum side yard setback of 10' to 6.5' for a solar energy system; 2) from the maximum 1 accessory structure to 2 solar energy systems as accessory structures; 3) to allow solar energy systems as accessory structures in the front yard; and 4) from the maximum height for a ground mounted solar energy system of 12' to 16', property located at 1403 PRAIRIE AVE. Zoned I Industrial.** *(Audio Position: 0:16:55)*

STAFF REPORT

The staff report was presented by Amani Morrell.

Analysis: The variances will allow for the construction of solar energy systems above an off street surface parking lot that will enhance the interface between the parcel and the street, reduce heat island effects, produce sustainable energy, and shelter vehicles. While the proposed solar energy systems require variances, they do meet the intent of the zoning ordinance.

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

PETITIONER

Chris Godlewski, Senior Urban Planner, Abonmarche, 315 W Jefferson Blvd, South Bend, IN appeared in person to present 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 Kathy Schuth and unanimously carried, a petition by CULTIVATE CULINARY SCHOOL AND CATERING INC seeking the following variances: 1) from the minimum side yard setback of 10' to 6.5' for a solar energy system; 2) from the maximum 1 accessory structure to 2 solar energy systems as accessory structures; 3) to allow solar energy systems as accessory structures in the front yard; and 4) from the maximum height for a ground mounted solar energy system of 12' to 16' was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Yes

4. **The petition of SHERMAN PARTNERS SB, LLC seeking the following variance(s): 1) from the maximum stories for a Detached House building type of 2.5 to 3; 2) to allow an accessory structure in the corner yard; and 3) to allow a 12' fence/wall in the corner yard, property located at 1345 MICHIGAN ST. Zoned UF Urban Neighborhood Flex.**

(Audio Position: 0:23:04)

STAFF REPORT

The staff report was presented by Amani Morrell.

Analysis: The variances will allow for eight new residential units that are contextually appropriate in scale and effectively address the street. While the maximum height of a detached house is 2.5 stories, the proposed 3 story height is contextually appropriate as buildings are permitted up to a height of 4 stories and 55' in the UF zoning district. The accessory dwelling unit in the corner yard addresses Angela Boulevard in the same way a primary building would, with a frontage type and sidewalk connection facing north towards the street.

Staff Recommendation: Based on the information provided prior to the public hearing, Staff recommends the Board approve variances 1 and 2 as presented. Staff may support variance 3 if the fence/wall effectively wraps the corner and does not present an expansive blank surface.

PETITIONER

Charlie Vaughn, representing Sherman Partners SB, 209 29th Ave N, Ste 150, Nashville, TN appeared in person to present.

Bryan Keve, 4909 Bowline Court, South Bend, IN appeared in person to present.

Chris Godlewski, Senior Urban Planner, Abonmarche, 315 W Jefferson Blvd, South Bend, IN appeared in person to present on behalf of the petitioner.

John Piraccini, Coldwell Banker, 1539 N Ironwood, South Bend, IN appeared in person to present

INTERESTED PARTIES

Jeff Robertson, 138 W Angela, appeared in person to speak and voice concerns while neither in favor or opposition to the petition.

Maria Cashore, 1308 Otsego St, South Bend, IN appeared virtually to speak in opposition to the petition.

PUBLIC COMMENT

Joe Broden, 201 W North Shore Dr, South Bend, IN appeared in person to speak in opposition to the petition.

REBUTTAL

Charlie Vaughn and John Piraccini provided rebuttal remarks.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Frank Fotia and unanimously carried, a petition by SHERMAN PARTNERS SB, LLC seeking the following variances: 1) from the maximum stories for a Detached House building type of 2.5 to 3; 2) to allow an accessory structure in the corner yard; and 3) to allow a 12' fence/wall in the corner yard was tabled as presented.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Yes

Frank Fotia left the meeting between the conclusion of voting for item number 5 and before the hearing of item number 6 began at Audio Position: 1:17:20.

- 5. The petition of SOUTH BEND YOUTH HOCKEY INC & A&F REALTY seeking the following variance(s): 1) from the requirement that a parking area be hard surfaced to gravel surfaced, property located at 1421 WALNUT ST. Zoned I Industrial.**

(Audio Position: 1:17:43)

STAFF REPORT

The staff report was presented by Amani Morrell.

Analysis: The petitioner is proposing an overflow gravel parking lot in the rear of the lot to support additional use of the site while meeting the intent of the ordinance. The parking will be located over 500' from the public right of way, limiting the tracking of gravel onto public roads, and vehicles will not be parked on the lot for extended periods of time.

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

PETITIONER

Bob Heiden, Jones Petrie Rafinski, 325 S Lafayette, Blvd, South Bend, IN appeared in person to present 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 Kathy Schuth and unanimously carried, a petition by SOUTH BEND YOUTH HOCKEY INC & A&F REALTY seeking the following variances: 1) from the requirement that a

parking area be hard surfaced to gravel surfaced was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Absent

- 6. The petition of REALAMERICA DEVELOPMENT, LP seeking the following variance(s): 1) from the maximum length of a Stacked Flat building type in a DT district of 200' to 234', property located at 520 S LAFAYETTE BLVD. Zoned DT Downtown.**

(Audio Position: 1:21:48)

STAFF REPORT

The staff report was presented by Amani Morrell.

Analysis: As a LIHTC funded project, the apartment complex must provide a minimum of 60 units. The variance for the length of the building will allow for the construction of the 60 affordable apartment units while accommodating for an AT&T fiber duct running through the site.

Staff Recommendation: Based on the information available prior to the public hearing, the Staff recommends the variance be granted as presented.

PETITIONER

Michael Surak, EVP Development, RealAmerica Development, 3250 Dean Rd, Indianapolis, IN appeared virtually to present.

INTERESTED PARTIES

There was no one from the public to speak.

PUBLIC COMMENT

There was no one from the public to speak.

ACTION

After careful consideration, the following action was taken:

Upon a motion by Caitlin Stevens, being seconded by Kaine Kanczuzewski and unanimously carried, a petition by REALAMERICA DEVELOPMENT, LP seeking the following variances: 1) from the maximum length of a Stacked Flat building type in a DT district of 200' to 234' was approved as presented, and will issue written Findings of Fact.

Caitlin Stevens - Yes
Kaine Kanczuzewski - Yes
Mark Burrell -Yes
Kathy Schuth -Yes
Frank Fotia - Absent

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact

April 1, 2024

(Audio Position: 1:30:00)

Upon a motion by Caitlin Stevens, being seconded by Kathy Schuth and unanimously carried, the findings of fact from the April 1, 2024 Board of Zoning Appeals meeting were approved.

2. Minutes

April 1, 2024

(Audio Position: 1:30:22)

Upon a motion by Caitlin Stevens, being seconded by Kathy Schuth and unanimously carried, the minutes from the April 1, 2024 Board of Zoning Appeals meeting were approved.

3. Other Business


4. Adjournment - 5:30pm

RESPECTFULLY SUBMITTED,



MARK BURRELL,
Chair

ATTEST:



TIM CORCORAN,
Interim Secretary of the Board