

AREA BOARD OF ZONING APPEALS
of
St. Joseph County, Indiana

Wednesday, August 08, 2018
Fourth-Floor Council Chambers

1:30 p.m.
County-City Building

AGENDA

- 1 The petition of CIVIL CITY OF SOUTH BEND seeking the following variance(s): 1) from the maximum 8' height for a monument sign to 9'5", property located at 209 S CHAPIN ST, Portage Township. Zoned O Office District (South Bend).
- 2 The petition of LEGACY LAND OPERATIONS LLC seeking the following variance(s): 1) from the minimum lot area of 20 acres to 2 acres for proposed Lots 1 - 4, property located at 52855 BEECH RD, Harris Township. Zoned A: Agricultural District (County).
- 3 The petition of PAUL W JR & KATHRYN A FUTA seeking the following variance(s): 1) from the minimum 20 acre lot area to 1.65 acres, property located at 28501 SR 23 HWY, Greene Township. Zoned A: Agricultural District (County).
- 4 The petition of DALE L & SUSAN M PIECHOCKI seeking the following variance(s): 1) from the maximum allowed 1064 sq. ft. for a detached accessory structure to 1216 sq. ft., property located at 25258 ROOSEVELT RD, Greene Township. Zoned R: Single Family District (County).
- 5 The petition of KENNETH SMITH seeking the following variance(s): 1) from the maximum allowed 2035 sq. ft. for a detached accessory structure to 2432 sq. ft., property located at 66033 SMILAX RD, Liberty Township. Zoned R: Single Family District (County).
- 6 The petition of CHARLES R ELLIS seeking the following variance(s): 1) from the minimum 20 acre lot area to 4.71 acres, property located at 69730 QUINCE RD, Liberty Township. Zoned A: Agricultural District (County).
- 7 The petition of CITY OF SOUTH BEND DEPT OF REDEVELOPMENT seeking a Special Exception Use to allow to allow a drive-thru restaurant in the Central Business District, and seeking the following variance(s): 1) from the 15' minimum parking setback to 7'; 2) from the 12' bail out lane to none; 3) from the 24' maneuvering lane to 14' and 4) from the required parking area screening to allow structural means to provide screening, property located at 213 and 217 SOUTH MAIN ST., Portage Township. Zoned CBD Central Business District (South Bend).

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact
2. Minutes
3. Other Business
4. Adjournment



MEMORANDUM

DATE: July 30, 2018

TO: Area Board of Zoning Appeals

FROM: Angela M. Smith, Deputy Director

SUBJECT: August 8, 2018 Area Board of Zoning Appeals Hearing

The following comments are being made concerning items to be heard at the Area Board of Zoning Appeals meeting on August 8, 2018. The absence of comments on any particular item should not be construed to mean that the staff agrees with the request.

Variations

A variance from any of the development standards of the Zoning Ordinance may only be approved upon the Board of Zoning Appeals making a written determination and adopting appropriate Findings of Fact, based upon the evidence presented at a public hearing, that:

- (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;*
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,*
- (3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.*

1. Petition of Civil City of South Bend

The staff recommends denial of the variations. The legal non-conforming provisions discourage the survival of non-conforming structures. If a legal non-conforming sign cabinet is changed or removed, the sign should be brought in to conformance with the requirements of Ordinance. Because the sign cabinet is being replaced, there are no practical difficulties that prevent the structure from complying with the provisions of the chapter.

2. Petition of Legacy Land Operations

The staff recommends denial of the variance request. Agriculturally zoned properties require a minimum of 20 acres and 600' frontage for each lot. The application would create lots that are not consistent with the Agricultural District and would not be in accordance with the Comprehensive Plan. The Agricultural District is established to preserve prime agriculture land, to conserve the desirable characteristic of the land, and to protect areas from the encroachment of scatter urban-type uses and detrimental economic impacts of urban sprawl. The proposed request would create a lot that is significantly smaller than the minimum lot size and configuration from agricultural zoned lots and allows for higher density residential than allowed in this district.

Special Exception / Special Use

A special exception use / special use may only be granted upon making a written determination and adopting appropriate Findings of Fact, based upon the evidence presented at a public hearing, that:

- (1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*
- (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;*
- (3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein;*
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan*

7. Petition of City of South Bend, Department of Redevelopment

Based on information available prior to the public hearing, the staff recommends the Special Exception Use be sent to the Common Council with a favorable recommendation.

- (1) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.*

The proposed drive-through will not be injurious to the public health, safety, or general welfare of the community.

- (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein.*

The proposed use is located within the dense Central Business District, and is thus compatible with other uses in the area. Unlike a traditional, suburban drive-thru facility, the proposed facility is part of a 6-story building, consistent with neighboring downtown structures. Furthermore, the proposed development is expected to increase neighboring property values because the subject property is currently only a parking lot and vacant land.

- (3) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein.*

The proposed drive-thru is an appropriate use within the Central Business District zone because it will accommodate all visitors to the area, including automobile users, pedestrians, cyclists, and mass transit users.

- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.*

Objective LU 3.1 of the City of South Bend Comprehensive Plan states that the City should "provide incentives to build on underutilized and vacant lots to increase the density of the CED." The proposed project will accomplish this objective, and the drive-thru function will allow for more density with less space devoted to parking. Furthermore, the proposed project accomplishes many of the sub-goals of the South Bend Central Development Area Development Plan. Specifically pertaining to the drive-thru request, sub-goal #10 states that the City needs "to create an overall environmental quality that recognizes the pervasive use and influence of the automobile on the Area but at the same time provides pedestrians, cyclists and mass transit users with a safe, accessible, and attractive circulation system." A drive-thru accommodates automobile users, while the site design, site location, and bicycle facilities accommodate pedestrians, cyclists and mass transit users. Additionally, the South Bend Economic Development Office has indicated strong support for the proposed project.