

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

Wednesday, February 13, 2019
Fourth-Floor Council Chambers

1:30 p.m.
County-City Building

AGENDA

- 1 The petition of R&A COLFAX PROPERTY, LLC seeking the following variance(s): 1) from the 18' minimum front façade height to 10' and 2) from the 12' maximum front yard and building setback to 46' on Colfax Avenue and 70' on Notre Dame Avenue, property located at 829-831 E COLFAX AVE, Portage Township. Zoned MU Mixed Use District (South Bend).
- 2 The petition of VANDNA PATEL seeking the following variance(s): 1) from the 30' minimum front yard and building setback to 6'-7" for a drive-through and bailout lane, property located at 4836 WESTERN AVENUE, Portage Township. Zoned CB Community Business District (South Bend).
- 3 The petition of UNITY GARDENS INC seeking the following variance(s): 1) from the required architectural standards for external building finish, property located at 3701 (3611) PRAST BLVD, Portage Township. Zoned CB Community Business District (South Bend).
- 4 The petition of MBP8, LLC seeking the following variance(s): 1) from the required 40' minimum rear yard setback to 3' along the north property line for a playground and shade canopy, property located at VACANT LAND APPROXIMATELY 800' SOUTHWEST OF ELM ROAD ON THE NORTHERLY SIDE OF STATE ROAD 23, Harris Township. Zoned R: Single Family District (County).
- 5 The petition of GREATER LOWELL HOLDINGS LLC seeking the following variance(s): 1) from the 22' minimum front façade height to 7'6", property located at 504 E LASALLE AVE, Portage Township. Zoned CBD Central Business District (South Bend).
- 6 The petition of EL-AMMORI WADAD seeking a Special Exception Use for a car wash, property located at 1119 LINCOLN WAY W, Portage Township. Zoned LB Local Business District (South Bend).
- 7 The petition of BAUER LEGAL LLC seeking the following: Administrative appeal of the issuance of an Improvement Location Permit based on the following: 1) lack of an application; 2) inadequate parking under the zoning ordinance; and 3) unlawful reconstruction/expansion of a legal non-conforming building, property located at 806 E HOWARD ST, Portage Township. Zoned O Office District (South Bend).

ITEMS NOT REQUIRING A PUBLIC HEARING

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

**AREA BOARD OF ZONING APPEALS
ST. JOSEPH COUNTY, INDIANA**

MINUTES

Wednesday, February 13, 2019
1:30 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:

Sidney Shafer
Kathy Schuth
John Leszczynski
Jack Young
Brendan Crumlsh

MEMBERS ABSENT:

Robert Hawley
Michael Urbanski

ALSO PRESENT:

Lawrence P. Magliozzi
Angela Smith
Jennifer Parcell
Jennifer Henthorn

PUBLIC HEARINGS:

- 1. The petition of R&A COLFAX PROPERTY, LLC seeking the following variance(s): 1) from the 18' minimum front façade height to 10' and 2) from the 12' maximum front yard and building setback to 46' on Colfax Avenue and 70' on Notre Dame Avenue, property located at 829-831 E COLFAX AVE, Portage Township. Zoned MU Mixed Use District (South Bend).**
(Audio Position: 3:15)

PETITIONER

TIM MCCOLLOUGH of McCollough Scholten Construction, Inc. with offices located at 2112 Aeroplex Drive North, Elkhart, IN presented the petition on behalf of the petitioner.

SONNY SINGH residing at 4232 Ridgeway Drive, LaPorte, IN part owner of the site presented the petition as the petitioner.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by John Leszczynski, being seconded by Jack Young and unanimously carried, a petition by R&A COLFAX PROPERTY, LLC seeking the following variances: 1) from the 18' minimum front façade height to 10' and 2) from the 12' maximum front yard and building setback to 46' on Colfax Avenue and 70' on Notre Dame Avenue was approved as presented and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

- 2 **The petition of VANDNA PATEL seeking the following variance(s): 1) from the 30' minimum front yard and building setback to 6'-7" for a drive-through and bailout lane, property located at 4836 WESTERN AVENUE, Portage Township. Zoned CB Community Business District (South Bend).** *(Audio Position: 8:50)*

PETITIONER

VANDNA PATEL of 10100 Pembury Drive, Granger presented as the petitioner.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Jack Young and carried, a petition by VANDNA PATEL seeking the following variances: 1) from the 30' minimum front yard and building setback to 6'-7" for a drive-through and bailout lane was approved as presented and will issue written Findings of Fact.

Brendan Crumlish - No
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

NOTE: John Leszczynski recuses himself from this petition as his company The Troyer Group is the landscape architect of this project. Mr. Leszczynski left the Council Chambers at this time.

- 3 **The petition of UNITY GARDENS INC seeking the following variance(s): 1) from the required architectural standards for external building finish, property located at 3701 (3611) PRAST BLVD, Portage Township. Zoned CB Community Business District (South Bend).** *(Audio Position: 14:53)*

PETITIONER

SARA STEWART of the Unity Gardens located at 3611 Prast Boulevard, South Bend presented on behalf of the petitioner.

JONATHON GEELS landscape architect of the Troyer Group with offices located at 550 Union Street, Mishawaka, IN also presented on behalf of the petitioner.

IN FAVOR

There was one person present to speak in favor of this petition. They were:

MICHAEL DIVITA of the Department of Community Investment with offices located on the 14th floor of the County City Building.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by Kathy Schuth and unanimously carried, a petition by UNITY GARDENS INC seeking the following variances: 1) from the required architectural standards for external building finish was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - Abstain
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

NOTE: Mr. Leszczynski returned to the Council Chambers at this time.

- 4 **The petition of MBP8, LLC seeking the following variance(s): 1) from the required 40' minimum rear yard setback to 3' along the north property line for a playground and shade canopy, property located at VACANT LAND APPROXIMATELY 800' SOUTHWEST OF ELM ROAD ON THE NORTHERLY SIDE OF STATE ROAD 23, Harris Township. Zoned R: Single Family District.** *(Audio Position: 25:58)*

PETITIONER

TERRY LANG of Lang Feeney & Associates with offices located at 715 S. Michigan Street, South Bend, IN presented the petition on behalf of the petitioner.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Jack Young and carried, a petition by MBP8, LLC seeking the following variance: 1) from the required 40' minimum rear yard setback to 3' along the north property line for a playground and shade canopy was approved as presented and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - No
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

5 The petition of GREATER LOWELL HOLDINGS LLC seeking the following variance(s): 1) from the 22' minimum front façade height to 7'6", property located at 504 E LASALLE AVE, Portage Township. Zoned CBD Central Business District (South Bend). *(Audio Position: 36:40)*

This petition was disposed due to the lack of petitioner or their representative presence to present the petition.

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

6 The petition of EL-AMMORI WADAD seeking a Special Exception Use for a Car Wash, property located at 1119 LINCOLN WAY W, Portage Township. Zoned LB Local Business District (South Bend). *(Audio Position: 38:04)*

PETITIONER

BARBARA GRILEY of 1508 Western Avenue, South Bend, IN presented the petition on behalf of the petitioner.

IN FAVOR

There was one person present to speak in favor of this petition. They were:

SAMUEL BROWN of Citizens United for a Better Government residing at 222 E. Lombard, South Bend, IN.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Jack Young and unanimously carried, a petition by EL-AMMORI WADAD seeking a Special Exception Use for a Car Wash for property located at 1119 LINCOLN WAY W, City of South Bend, was sent to the Council with a favorable recommendation, subject to the following written commitment: No vehicles may be stored onsite overnight unless located within the building and will issue written Findings of Facts.

Brendan Crumlsh - Yes
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

NOTE: Mr. Crumlsh turned this portion of the meeting over to legal counsel, Ms. Ecker.

- 7 **The petition of BAUER LEGAL LLC seeking the following: Administrative appeal of the issuance of an Improvement Location Permit based on the following: 1) lack of an application; 2) inadequate parking under the zoning ordinance; and 3) unlawful reconstruction/expansion of a legal non-conforming building, property located at 806 E HOWARD ST, Portage Township. Zoned O Office District.**

(Audio Position: 50:27)

PETITIONER

DIANA BAUER of Bauer Legal LLC of 429 E. Dupont Road #175, Fort Wayne, IN presented the petition of behalf of the petitioner.

ANGELA SMITH Deputy Director of the Area Plan Commission presented a Staff Report.

IN FAVOR

There were nine people present to speak in favor of this petition. They were:

- TOM MUSTILLO residing at 926 N. St. Peter Street, South Bend, IN.
- BILL STENCE President of the Northeast Neighborhood Council.
- BILL PURCELL residing at 920 N. St. Peter Street, South Bend, IN.
- LUELLA WEBSTER residing at 701 E. Howard Street, South Bend, IN.
- RUDY REYES residing at 1014 N. St. Peter Street, South Bend, IN.
- ROGER PARENT residing at 917 Whitehall Drive, South Bend, IN.
- BRIAN LANDY residing at 918 N. St. Peter Street, South Bend, IN.

MARQURITE TAYLOR residing at 714 E. Corby Boulevard, South Bend, IN.
TROY WARNER residing at 623 Marquette Avenue, South Bend, IN.

REMONSTRANCE

There were two people present to speak in remonstrance to this petition. They were:

STEPHEN STUDER of Krieg/DeVault with offices located at 4101 Edison Lakes Parkway, Suite 100, Mishawaka, IN.

DAN BUCKENMEYER of the Department of Community Investment with offices located on the 14th floor of the County City Building.

REBUTTAL

DIANA BAUER presented the rebuttal

NOTE: Ms. Ecker turned the meeting back over to Mr. Crumlish.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Jack Young, and unanimously carried, the administrative appeal of the issuance of an Improvement Location Permit was affirmed and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact *(Audio Position: 1:56:56)*

A. Findings of Fact for petitions heard at the January 9, 2019 Area Board of Zoning Appeals.

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by John Leszczynski, and unanimously carried, the Findings of Facts from the January 9, 2019 meeting of the Area Board of Zoning Appeals were approved.

FINDINGS OF FACT

BRADLEY MANAGEMENT LLC
57455 POPPY RD
St. Joseph County

On Wednesday, January 9, 2019, the Area Board of Zoning Appeals approved the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

1) from the 100' minimum lot width and frontage to 20' for proposed Lot 2

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being 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.

The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The conditions of this particular property create an unusual and unnecessary hardship.

Roll Call:

Brendan Crumlish - Yes

Kathy Schuth - Yes

Robert Hawley - Absent

Michael Urbanski - Yes


John Leszczynski - Yes

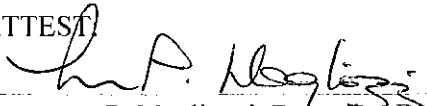
Jack Young - Yes

Sidney Shafer - Yes

The Minutes of the January 9, 2019 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on on this 13th day of February, 2019.


Brendan Crumlish, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST

Lawrence P. Magliozzi, Executive Director

FINDINGS OF FACT

DONALD D & NANCY A PARCELL
10128 PIERCE RD
St. Joseph County

On Wednesday, January 9, 2019, the Area Board of Zoning Appeals approved the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

- 1) from the 20 acre minimum lot area to 2 acres;
- 2) from the 30' minimum side yard setback to 8' along the west line

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being 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.

The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

Conditions on this property create a different situation for this property.


Roll Call:

Brendan Crumlish - Yes
Robert Hawley - Absent
John Leszczynski - Yes
Sidney Shafer - Yes

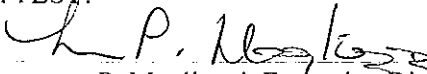
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

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Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on this 13th day of February, 2019.


Brendan Crumlish, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST:


Lawrence P. Magliozzi, Executive Director

FINDINGS OF FACT

JUPITER SOUTH BEND LLC
3602 W SAMPLE ST
City of South Bend

On Wednesday, January 9, 2019, the Area Board of Zoning Appeals approved the following variances from the Development Standards of the City of South Bend Zoning Ordinance:

- 1) from the 30' minimum front yard setback of Parcel B and 10' rear yard setback of Parcel A to 0'
- 2) from the required screening of outdoor storage to a 10' solid fence for 780' along the east, 1120' along the west, none on the south, and use of the existing building wall on the north
- 3) from the required landscaping of required perimeter yards to none, subject to installation of perimeter landscaping along Sample;
- 4) from the required foundation landscaping to the existing landscaping

The approved variances are subject to the approval of the Special Exception Use.

- (1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being 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.

The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

- (3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The conditions of this particular property create an unusual and unnecessary hardship.

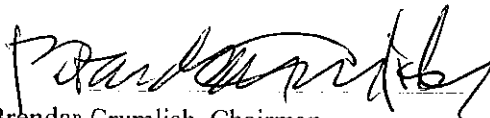
Roll Call:

Brendan Crumlish - Yes
 Robert Hawley - Absent
 John Leszczynski - Yes
 Sidney Shafer - Yes

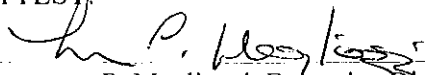
Kathy Schuth - Yes
 Michael Urbanski - Yes
 Jack Young - Yes

The Minutes of the January 9, 2019 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on this 13th day of February, 2019.


 Brendan Crumlish, Chairman
 Area Board of Zoning Appeals
 St. Joseph County, Indiana

ATTEST:


 Lawrence P. Magliozzi, Executive Director

FINDINGS OF FACT

JUPITER SOUTH BEND LLC
3602 W SAMPLE ST
City of South Bend

On Wednesday, January 9, 2019, the Area Board of Zoning Appeals forwarded a petition for processing and storage of aggregate materials, including on-site crushing of materials and to allow storage in excess of 50% of the total lot area to the Council with a favorable recommendation.

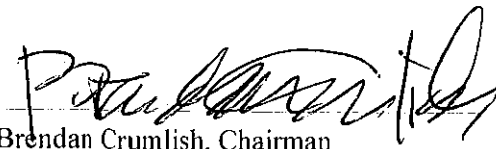
- (1) The Proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare:
Locating the proposed use in an industrial area should not be injurious to the public health, safety, or general welfare of the community.
- (2) The proposed use will not injure or adversely affect the use of the adjacent area or property values:
Preserving the façade of the building and installation of landscaping will provide screening to prevent negative effects on the use or value of the adjacent property values.
- (3) The proposed use will be consistent with the character of the district in which it is located and the land use authorized therein:
The proposed use is consistent with the character of the GI General Industrial District.
- (4) The proposed use is compatible with the recommendations of the Comprehensive Plan.
The proposed use is consistent with the City Plan, South Bend Comprehensive Plan (November 2006): Objective ED 1.2: Encourage reuse of abandoned and underutilized land and structures.

Roll Call:

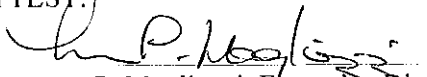
Brendan Crumlish - Yes	Kathy Schuth - Yes
Robert Hawley - Absent	Michael Urbanski - Yes
John Leszczynski - Yes	Jack Young - Yes
Sidney Shafer - Yes	

The Minutes of the January 9, 2019 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on this 13th day of February, 2019.


Brendan Crumlish, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST:


Lawrence P. Magliozzi, Executive Director

FINDINGS OF FACT

KLINE CUSTOM HOMES, INC.

Cobblestone Square Subdivision (Gumwood between Cleveland
and Brick)

St. Joseph County

On Wednesday, January 9, 2019, the Area Board of Zoning Appeals approved the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

1) from the 35' minimum front yard setback to 25' for Lots 2-19

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

Development and use as presented will comply with all building, fire safety, traffic, and parking regulations as to not being 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.

The variance or use shall improve the appearance of the neighborhood and will not devalue the surrounding properties.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The conditions of this particular property create an unusual and unnecessary hardship.

Roll Call:

Brendan Crumlish - Yes

Kathy Schuth - Yes

Robert Hawley - Absent

Michael Urbanski - Yes

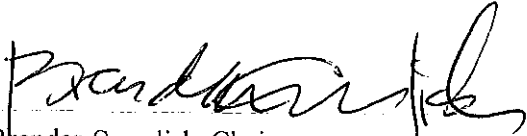
John Leszczynski - Yes

Jack Young - Yes

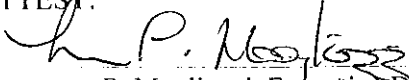
Sidney Shafer - Yes

The Minutes of the January 9, 2019 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on this 13th day of February, 2019.


Brendan Crumlish, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST:


Lawrence P. Magliozzi, Executive Director

2. Minutes

(Audio Position: 1:57:17)

A. **Approval of the minutes from the December 12, 2018 meeting of the Area Board of Zoning Appeals.**

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by John Leszczynski, and unanimously carried, the minutes from the December 12, 2018 meeting of the Area Board of Zoning Appeals were approved.

B. **Approval of the minutes from the January 9, 2019 meeting of the Area Board of Zoning Appeals.**

After careful consideration, the following action was taken:


Upon a motion by Jack Young, being seconded by John Leszczynski, and unanimously carried, the minutes from the January 9, 2019 meeting of the Area Board of Zoning Appeals were approved.

3. Other Business

(Audio Position: 1:57:37)

4. Adjournment: 3:30 p.m.

RESPECTFULLY SUBMITTED,


BRENDAN CRUMLISH
CHAIRMAN OF THE BOARD

ATTEST:


LAWRENCE P. MAGLIOZZI,
SECRETARY OF THE BOARD