

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

MINUTES

Wednesday, October 10, 2018
1:30 p.m.

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

MEMBERS PRESENT:

Robert Hawley
Michael Urbanski
Kathy Schuth
John Leszczynski
Jack Young
Brendan Crumlish

MEMBERS ABSENT:

Randy Matthys

ALSO PRESENT:

Angela Smith
Brandie Ecker
Jordan Wyatt
Jennifer Henthorn

PUBLIC HEARINGS:

- 1 The petition of SHAR SOSH seeking the following variance(s): 1) from the maximum 6' in height for a fence with less than 70% open space to 6' 6" on the east, property located at 219 E MARION ST, Portage Township. Zoned SF2 Single Family & Two-Family District (South Bend). (Audio Position: 3:14)**

PETITIONER

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

DEREK LIGHTFOOT of Schuell Fence, 22377 Adams Road, South Bend presented on behalf of the petitioner.

IN FAVOR

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

REMONSTRANCE

There were two people that spoke in opposition to the petition. Their concerns were: 1) fence height; and 2) the value and use of neighboring property being affected. They were:

JOSEPH PIETRZAK of Pietrzak Land Surveying with offices located at 24891 Kern Road South Bend, IN.

RICHARD LASALVIA of 221 E. Marion St., South Bend, IN

REBUTTAL

TERRY LANG presented the rebuttal.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by Kathy Schuth and unanimously carried, a petition by SHAR SOSH seeking the following variances: 1) from the maximum 6' in height for a fence with less than 70% open space to 6' 6" on the east was tabled.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

- 2 The petition of DAVID J GROVES seeking the following variance(s): 1) from the maximum 36" in height for a fence with less than 70% percent open space in a front yard to 7' 4" and 2) from the maximum 6' in height for a fence with less than 70% percent open space in a side or rear yard to 7' 4", property located at 52569 N FRANCIS ST, Clay Township. Zoned R: Single Family District (County). (Audio Position: 29:19)**

PETITIONER

DAVID GROVES 52569 Francis Street, South Bend, IN presented on behalf of 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 John Leszczynski and carried, a petition by DAVID J GROVES seeking the following variances: 1) from the maximum 36" in height for a fence with less than 70% percent open space in a front yard to 6' was approved as presented; 2) from the maximum 6' in height for a fence with less than 70% percent open space in a side or rear yard to 7'4" was denied, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - No
Jack Young - Yes

- 3 The petition of NEAR NORTHWEST NEIGHBORHOOD INC seeking the following variance(s): 1) from the minimum 25' front yard and building setback to 11' and 2) from the minimum 20' rear yard and building setback to 12', property located at 813 W VAN BUREN ST, Portage Township. Zoned SF2 Single Family & Two-Family District (South Bend). (Audio Position: 44:45)**

KATHY SCHUTH recused herself from this petition.

PETITIONER

MIKE KEEN of 1012 Riverside Drive, South Bend, IN, member of Hometown Properties who is the co-petitioner with the New Northwest Neighborhood presented 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 Michael Urbanski, being seconded by Jack Young and unanimously carried, a petition by NEAR NORTHWEST NEIGHBORHOOD INC seeking the following variances: 1) from the minimum 25' front yard and building setback to 11' and 2) from the minimum 20' rear yard and building setback to 12' was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Abstain
Michael Urbanski - Yes
Jack Young - Yes

- 4 The petition of FRANK D & STACY L REEVES seeking the following variance(s):**
1) from the maximum 1,424 sq. ft. for a detached accessory building to 1,696 sq. ft., property located at 57885 APPLE RD, Penn Township. Zoned R: Single Family District (County). (Audio Position: 49:32)

PETITIONER

FRANK REEVES of 57885 Apple Road, Osceola, IN presented 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 Michael Urbanski and unanimously carried, a petition by FRANK D & STACY L REEVES seeking the following variances: 1) from the maximum 1,424 sq. ft. for a detached accessory building to 1,696 sq. ft. was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

- 5 The petition of FRANCHISE REALTY CORPORATION seeking the following variance(s): 1) from the maximum allowed 1 drive through menu board for each drive through lane to 2 and 2) from the maximum 4' for an incidental sign to 7', property located at 3221 LINCOLN WAY W, Portage Township. Zoned CB Community Business District (South Bend). (Audio Position: 58:41)**

PETITIONER

GARRY POTTS of Professional Permits with offices located at 58171 Dragonfly Ct. Osceola, IN presented 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 Robert Hawley, being seconded by Michael Urbanski and unanimously carried, a petition by FRANCHISE REALTY CORPORATION seeking the following variances: 1) from the maximum allowed 1 drive through menu board for each drive through lane to 2 and 2) from the maximum 4' for an incidental sign to 7' was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

- 6 The petition of FRANCHISE REALITY CORP seeking the following variance(s):**
1) from the maximum allowed 1 drive through menu board for each drive through lane to 2 and 2) from the maximum 4' for an incidental sign to 7', property located at 5021 W WESTERN AV, Portage Township. Zoned CB Community Business District (South Bend). (Audio Position: 1:02:54)

PETITIONER

GARRY POTTS of Professional Permits with offices located at 58171 Dragonfly Ct., Osceola, IN presented 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 Robert Hawley, being seconded by Jack Young and unanimously carried, a petition by FRANCHISE REALITY CORP seeking the following variances: 1) from the maximum allowed 1 drive through menu board for each drive through lane to 2 and 2) from the maximum 4' for an incidental sign to 7' was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

- 7 The petition of FRANCHISE REALTY CORP seeking the following variance(s): 1) from the maximum allowed 1 incidental sign per critical turn to 2 to allow drive through menu boards; 2) from the maximum 4' for an incidental sign to 7'; 3) from the maximum 6 sq. ft. to 48 sq. ft.; 4) from the minimum 15' front setback for parking to 8' and 5) from the required parking area screening to none, property located at 416 N DR MARTIN LUTHER KING JR BLVD, Portage Township. Zoned CBD Central Business District (South Bend). (Audio Position: 1:04:37)**

PETITIONER

GARRY POTTS of Professional Permits with offices located at 58171 Dragonfly Ct., Osceola, IN presented 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 Michael Urbanski, being seconded by Robert Hawley and unanimously carried, a petition by FRANCHISE REALTY CORP seeking the following variances: 1) from the maximum allowed 1 incidental sign per critical turn to 2 to allow drive through menu boards; 2) from the maximum 4' for an incidental sign to 7'; 3) from the maximum 6 sq.ft. to 48 sq.ft.; 4) from the minimum 15' front setback for parking to 8' and 5) from the required parking area screening to none was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

8 The petition of MICHAEL S LOCHMONDY seeking the following variance(s): 1) from the maximum allowed 1,924 sq. ft. for a detached accessory building to 2,292 sq. ft., property located at 22922 ADAMS RD, German Township. Zoned R: Single Family District (County). (Audio Position: 1:13:09)

PETITIONER

MICHAEL LOCHMONDY of 22922 Adams Road, South Bend, IN spoke on behalf of the petitioner.

IN FAVOR

Four letters were received stating they support the petition filed by Michael Lochmondy. They were from:

Mike Morris of 22935 Adams Road, South Bend, IN.

Amanda Rambo of P.O. Box 2288, South Bend, IN.

Jeff Freymuth of 22874 Adams Road, South Bend, IN.

Domenico Aversa of 22992 Adams Road, 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 Michael Urbanski, being seconded by and unanimously carried, a petition by MICHAEL S LOCHMONDY seeking the following variances: 1) from the maximum allowed 1,924 sq. ft. for a detached accessory building to 2,292 sq. ft. was tabled.

Brendan Crumlish - Yes

Robert Hawley - Yes

John Leszczynski - Yes

Randy Matthys - Absent

Kathy Schuth - Yes

Michael Urbanski - Yes

Jack Young - Yes

- 9 The petition of WILLIAM F ALFORD CO INC seeking the following variance(s):**
1) from the required off-street parking area screening on the North and East side to none, property located at 3924 PORTAGE RD, German Township. Zoned CB Community Business District (South Bend). (Audio Position: 1:19:47)

PETITIONER

RICH ALFORD, owner of the William Alford Co., with offices located at 2112 Industrial Drive, Niles, MI presented 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 John Leszczynski, being seconded by Michael Urbanski and unanimously carried, a petition by WILLIAM F ALFORD CO INC seeking the following variances: 1) from the required off-street parking area screening on the North and East side to none was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

10 The petition of STANZ CHEESE CO., INC. seeking the following variance(s): 1) to allow off-street loading between the front lot line and the front façade of the building and 2) from the required foundation landscaping to none, property located at EASTSIDE OF SOUTH DYLAN DRIVE AT PARKLAND DRIVE, German Township. Zoned LI Light Industrial District (South Bend). (Audio Position: 1:24:37)

PETITIONER

BRIAN MCMORROW of Abonmarche Consultants with offices located at 750 Lincolnway East, South Bend, IN presented on behalf of the petitioner.

TROY ADAMS of NFI Real Estate with offices located at 1515 Burnt Mill Road, Cherry Hill, NJ presented on behalf of the petitioner.

IN FAVOR

There was one person who spoke in favor of the petition. He was:

MIKE DAIGLE, Executive Director of Airport Authority, 4477 Progress Drive, 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 Michael Urbanski, being seconded by Jack Young and unanimously carried, a petition by STANZ CHEESE CO., INC. seeking the following variances: 1) to allow off-street loading between the front lot line and the front façade of the building and 2) from the required foundation landscaping to none was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

11 The petition of MBP8, LLC seeking the following variance(s): 1) from the maximum 36" fence height in the front yard for a fence with less than 70% open space to 60"; 2) from the required off-street parking area screening to none along the most westerly parking lot row and 3) from the required 20' minimum side yard to 4' on the east for parking, property located at VACANT LAND APPROXIMATELY 800' SOUTHWEST OF ELM ON THE NORTHERLY SIDE OF STATE ROAD 23, Harris Township. Zoned R: Single Family District (County).
(Audio Position: 1:32:54)

PETITIONER

TERRY LANG of Lang, Feeney & Associates with offices located at 715 S. Michigan Street, South Bend, IN presented 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 Robert Hawley being seconded by Jack Young and unanimously carried, a petition by MBP8,LLC seeking the following variances: 1) from the maximum 36" fence height in the front yard for a fence with less than 70% open space to 60"; 2) from the required off-street parking area screening to none along the most westerly parking lot row and 3) from the required 20' minimum side yard to 4' on the east for parking was tabled.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

12 The petition of KENNETH GLON 1/2 INT & LINDA RUNYAN 1/2 INT seeking the following variance(s): 1) from the minimum 20 acre lot area to 12.58 acres for Lot 1 and 2) from the required 600' of frontage to 425' for Outlot A, property located at 27611 INWOOD RD, Warren Township. Zoned A: Agricultural District (County). (Audio Position 1:36:49)

PETITIONER

TERRY LANG of Lang, Feeney & Associates with offices locates at 715 S. Michigan St., South Bend, IN presented 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 Jack Young, being seconded by Robert Hawley and unanimously carried, a petition by KENNETH GLON 1/2 INT & LINDA RUNYAN 1/2 INT seeking the following variances: 1) from the minimum 20 acre lot area to 12.58 acres for Lot 1 and 2) from the required 600' of frontage to 425' for Outlot A was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

13 The petition of BRIAN A. VANNONI seeking the following variance(s): 1) from the minimum 100' lot width and frontage to 0', property located at PETRO DRIVE, Penn Township. Zoned R: Single Family District (County).
(Audio Position: 1:40:30)

PETITIONER

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

IN FAVOR

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

REMONSTRANCE

There were four people that spoke in opposition of the petition. Their concerns were: 1) protecting the integrity and uniqueness of the area; 2) drainage issues; and 3) zoning changes. They were:

JOE LENISKI of 16385 Petro Drive, Mishawaka, IN.

BRENT SACHS of 16230 Petro Drive, Mishawaka, IN.

PAUL HICKS of 16368 Petro Drive, Mishawaka, IN.

DONALD COLE of 16405 Petro Drive, Mishawaka, IN.

REBUTTAL

TERRY LANG presented the rebuttal.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by John Leszczynski and unanimously carried, a petition by BRIAN VANNONI seeking the following variances: 1) from the minimum 100' lot width and frontage to 0' was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

14 The petition of 2010 INVESTMENT GROUP LLC seeking a Special Exception Use to allow a Two-Family Dwelling, and seeking the following variance(s): 1) from the minimum 6,000 sq. ft. lot area for Two Family Dwellings to 5,540 sq. ft. and 2) from the minimum 25' front yard and building setback to 15', property located at 1715 S DALE AVE AND 1717 S. DALE AVE, Portage Township. Zoned SF2 Single Family & Two-Family District (South Bend). (Audio Position: 1:55:49)

PETITIONER

DAVID NJOROGÉ of 2010 Investment Group LLC with offices located at 3131 Springbrook Drive, South Bend, IN presented 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 Michael Urbanski, being seconded by Robert Hawley and unanimously carried, a petition by 2010 INVESTMENT GROUP LLC seeking a Special Exception Use for a Two-Family Dwelling for property located at 1715 S DALE AVE AND 1717 S. DALE AVE, City of South Bend, was sent to the Council with a favorable recommendation, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

Upon a motion by Michael Urbanski, being seconded by Jack Young and unanimously carried, a petition by 2010 INVESTMENT GROUP LLC seeking the following variances: 1) from the minimum 6,000 sq. ft. lot area for Two Family Dwellings to 5,540 sq. ft. and 2) from the minimum 25' front yard and building setback to 15' was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young - Yes

15 The petition of CITY OF SOUTH BEND seeking a Special Exception Use to allow a Private Hydro-dam Electric Utility Facility, and seeking the following variance(s): 1) from the 5 ft. minimum side yard and building setback to 2 ft on the north for Parcel A and 2) from the minimum front façade height - in elevation view from the street frontage, 22 ft. to a minimum of 10 ft. for both shown buildings, property located at 340 E COLFAX AV, Portage Township. Zoned CBD Central Business District (South Bend). (Audio Position: 2:01:35)

PETITIONER

MIKE DANCH of Danch, Harner & Associates with offices located at 1643 Commerce Drive, South Bend, IN presented 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 Robert Hawley and unanimously carried, a petition by CITY OF SOUTH BEND seeking a Special Exception Use for a Private Hydro-dam Electric Utility Facility for property located at 340 E COLFAX AV, City of South Bend, was sent to the Council with a favorable recommendation, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young – Yes

Upon a motion by Kathy Schuth, being seconded by Jack Young and unanimously carried, a petition by CITY OF SOUTH BEND seeking the following variances: 1) from the 5 ft. minimum side yard and building setback to 2 ft on the north for Parcel A and 2) from the minimum front façade height - in elevation view from the street frontage, 22 ft. to a minimum of 10 ft. for both shown buildings was approved as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Absent
Kathy Schuth - Yes
Michael Urbanski - Yes
Jack Young – Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact (Audio Position: 2:09:14)

- A. Findings of Fact for September 12, 2018

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski and seconded by Robert Hawley and carried the Findings of Fact from the September 12, 2018 meeting of the Area Board of Zoning Appeals were APPROVED.

2. Minutes (Audio Position: 2:09:22)

- A. Approval of the minutes from the July 11, 2018 meeting of the Area Board of Zoning Appeals.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Jack Young and carried, the minutes from the July 11, 2018 meeting of the Area Board of Zoning Appeals were APPROVED.

- B. Approval of the minutes from the August 8, 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 Robert Hawley and carried, the minutes from the August 8, 2018 meeting of the Area Board of Zoning Appeals were APPROVED.

The meeting was adjourned at 3:40 p.m.

ATTESTED:


Lawrence P. Magliozzi,
Secretary of the Board

RESPECTFULLY SUBMITTED:


Brendan Crumlish,
Chairman of the Board