

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

Wednesday, June 13, 2018  
Fourth-Floor Council Chambers

1:30 p.m.  
County-City Building

**AGENDA**

- 1 The petition of FCPT HOLDINGS LLC seeking the following variance(s): 1) to allow a trash enclosure between the front façade of the building and the front lot line, property located at 4207 S MICHIGAN ST, Centre Township. Zoned CB Community Business District (South Bend).
- 2 The petition of MICHAEL W AND PATRICIA L BETTCHER seeking the following variance(s): 1) from the minimum 20 acres lot area to 6, property located at 23481 TYLER RD, Union Township. Zoned A: Agricultural District (County).
- 3 The petition of AARON M AND CAROLINA WARKENTIN seeking the following variance(s): 1) from the maximum allowed 2,584 sq. ft. for an accessory structure to 4,116 sq. ft. and 2) from the maximum allowed height of 19' for an accessory structure to 25.5', property located at 23335 ADAMS RD, German Township. Zoned R: Single Family District (County).
- 4 The petition of MIGUEL A. BECERRIL seeking the following variance(s): 1) from the maximum allowed 19' in height and 1 story for a detached accessory structure to 24' and 2 story, property located at 56091 OAK RD, Portage Township. Zoned R: Single Family District (County).
- 5 The petition of JASON M AND JENNIFER N NEWGENT and STEVEN & CANDY MEREDITH seeking the following variance(s): 1) from the maximum 1 allowed detached accessory structure to 2, property located at 903 S EDISON AV, Portage Township. Zoned SF2 Single Family & Two Family District (South Bend).
- 6 The petition of BTW HOLDINGS LLC and Insite RE, Inc. and seeking the following variance(s): 1) to collocate a wireless communication facility on an existing structure that is less than 50' tall, property located at 1820 E SOUTH BEND AV, Clay Township. Zoned GB General Business District (South Bend).
- 7 The petition of CARDNO INC seeking the following variance(s): 1) from the 40' rear yard setback to 16', property located at 130 SUNSET DR, Lincoln Township. Zoned R: Single Family District (County) and A: Agricultural District (County).
- 8 The petition of GARY M AND JANET L CHEVILLET W LIFE ESTATE FOR ALICE A SCHUSTER seeking the following variance(s): 1) from the 25' front setback to 16', property located at 1214 E EATON DR, Centre Township. Zoned SF1 Single Family & Two Family District (South Bend).
- 9 The petition of MOLDING PRODUCTS LLC seeking the following variance(s): 1) from the 10' side setback to 0' on the north; 2) from the required landscaping of required perimeter yards to none on the north, west and south and 3) from the required minimum 7 parking spaces to 0, property located at 1545 S OLIVE ST, Portage Township. Zoned GI General Industrial District (South Bend).

- 10 The petition of GREATER LOWELL HOLDINGS LLC seeking the following variance(s): 1) from the 15' parking setback to 0' on the north and west; 2) from the 24' maneuvering aisle to 12' and 3) from the minimum 22' front façade height to 12', property located at 504 E LASALLE AV, Portage Township. Zoned CBD Central Business District (South Bend).
- 11 The petition of MATTHEW R MICHELE seeking the following variance(s): 1) from the 40' rear setback to 36', property located at 54255 FAYE DR, Penn Township. Zoned R: Single Family District (County).
- 12 The petition of JOSEPH T. IAMS seeking the following variance(s): 1) from the 10' rear setback to 1.5' for the dumpster enclosure; 2) from the 30' front residential bufferyard to 16' for parking; 3) from the required 30' front setback to 13' for vacuum machines; 4) from the required 12' bailout lane to 10'; 5) from the required landscaping of required perimeter yards to none; 6) from the required foundation landscaping to none and 7) from the required dumpster enclosure screening to none, property located at 17253 DOUGLAS, Clay Township. Zoned CB Community Business District (South Bend).
- 13 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).
- 14 The petition of WILLIAM V & THEDA K NIXON REV LIVING TRUST WILLIAM V & THEDA K NIXON TRUSTEES RES LIFE EST seeking the following variance(s): 1) from the minimum lot area of 20 acres to 1.5 acres; 2) from the 35' front yard setback to 16' and 3) from the 30' side yard setback to 17' on the west and 29' on the east, property located at 22005 MADISON RD, Greene Township. Zoned A: Agricultural District (County).
- 15 The petition of THADDEUS M JONES SR REV TRUST seeking the following variance(s): 1) from the minimum lot area of 20 acres to 2.62 acres and 2) from the 30' side yard setback to 11' along the northwesterly property, property located at 19451 QUINN RD, Union Township. Zoned A: Agricultural District (County).
- 16 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).
- 17 The petition of GETHSEMANE CHURCH OF GOD seeking a Special Exception Use to allow an off-site parking lot within 500' of an existing church, and seeking the following variance(s): 1) from the 25' front setback to 3' on the south and 6' on the west; 2) from the 20' side yard setback to 3' on the north and east; 3) from the required parking stops to none; 4) from the required 2 interior off-street parking landscape islands to none and 5) from the required landscaping of required perimeter yards to none, property located at 1235 W NAPIER ST, Portage Township. Zoned SF2 Single Family & Two Family District (South Bend).

#### ITEMS NOT REQUIRING A PUBLIC HEARING

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



## MEMORANDUM

DATE: June 4, 2018

TO: Area Board of Zoning Appeals

FROM: Angela M. Smith, Deputy Director

SUBJECT: June 13, 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 June 13, 2018. The absence of comments on any particular item should not be construed to mean that the staff agrees with the request.

### Variances

*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.*

#### **4. Petition of Miguel A Becerril**

If the variance is granted, the staff recommends it be subject to no plumbing in the detached accessory structure.

#### **12. Petition of Joseph T Iams**

The staff recommends denial of the required perimeter landscaping along the south property line, the foundation landscaping, and the dumpster enclosure screening. The staff further recommends that parking area screening be added on the south side of the proposed vacuum machines.

#### **13. Petition of Civil City of South Bend**

The staff recommends denial of the variances. 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.

#### **14. Petition of William & Theda Nixon Revocable Living Trust**

The zoning ordinance limits one single family dwelling per lot. The staff notes that prior to the completion of the subdivision, the usefulness of the second residential structure will need to be removed and verified.

#### **15. Petition of Thaddeus Jones Sr Revocable Trust**

If the variance is granted, the staff recommends it be subject to the remainder either being platted as an outlot on a recorded subdivision or combined with an adjacent parcel on a recorded deed.

#### **16. 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*

#### **17. Petition of Gethsemane Church of God**

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. The staff recommends the front setback be a minimum of 15' on the west property line and the drive aisle on the south be reduced to allow for a larger setback. The staff recommends the perimeter landscaping variance be denied on the west and south. The staff further recommends the denial of the interior off-street parking landscape islands to none.

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

The proposed parking lot 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.*

With proper landscaping and buffering, the proposed use will not adversely affect the use or value of the adjacent properties.

(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 use is for the expansion of a church that has been in the neighborhood for a long time. With the proper buffering, the use can be consistent with the character of the residential district and neighborhood in which it is located.

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

There is no specific reference to this particular use in the Comprehensive Plan.