

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

Wednesday, April 11, 2018  
Fourth-Floor Council Chambers

1:30 p.m.  
County-City Building

**AGENDA**

- 1 The petition of VELDMAN ENTERPRISES INC seeking the following variance(s): 1) from the maximum allowed 100 sq. ft. for a freestanding sign to 215 sq. ft.; 2) from the maximum allowed 25' height for a freestanding sign to 26' and 3) from the required 5' setback to 0', property located at 5222 W WESTERN AVE, Portage Township. Zoned CB Community Business District.
- 2 The petition of AARON M & 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 24', property located at 23335 ADAMS RD, German Township. Zoned R: Single Family District.
- 3 The petition of GW SOUTH BEND IN LLC seeking the following variance(s): 1) from the minimum 15' front parking setback to 0', property located at 206 W IRELAND RD, Centre Township. Zoned CB Community Business District.
- 4 The petition of SISTERS OF THE HOLY CROSS seeking the following variance(s): 1) from the required 40' front yard and building setback adjacent to the Toll Road ramp to 10', property located at 53993 SR 933 HWY, Clay Township. Zoned C: Commercial District.
- 5 The petition of DAVID C & CARMEN E MACHARASCHWILI seeking the following variance(s): 1) from the maximum allowed 17' height for an accessory structure to 25', property located at 1331 E SUNNYMEDE AVE, Portage Township. Zoned SF2 Single Family & Two Family District.
- 6 The petition of BRIAN S HENRY seeking the following variance(s): 1) from the minimum 5' side yard setback for a detached accessory structure to 1' and 2) from the minimum 5' rear yard setback for a detached accessory structure to 3', property located at 1614 E CEDAR ST, Portage Township. Zoned SF1 Single Family & Two Family District.
- 7 The petition of WHARF PARTNERS, LLC seeking the following variance(s): 1) from the maximum 15' front building setback to 175'; 2) from the minimum 5' side yard setback to 3' and 3) from the minimum 15' front parking setback to 5', property located at the SOUTH SIDE OF COLFAX BETWEEN THE ST. JOSEPH RIVER AND THE EAST RACE, Portage Township. Zoned CBD Central Business District.
- 8 The petition of DONALD R AND DARCY J TROYER 1/2INT AND EUGENE B ALLEN 1/2INT seeking the following variance(s): 1) from the required 30' minimum rear yard setback to 15', property located at 14551 KELLY RD, Penn Township. Zoned A: Agricultural District.

- 9 The petition of SBCC Development Corp seeking the following variance(s): 1) from the maximum allowed 64 sq. ft. for a monument sign to 120 sq. ft. and 2) from the maximum allowed 8' high monument to 13', property located at 22965 US 20 HWY, German Township. Zoned LI Light Industrial District.
- 10 The petition of ALDI LP seeking the following variance(s): 1) from the minimum 30' front setback for an off-premise sign to 0', property located at 202 E IRELAND RD, Centre Township. Zoned CB Community Business District.
- 11 The petition of BH INVESTMENTS LLC seeking a Special Exception Use to allow a two family dwelling, and seeking the following variance(s): 1) from the minimum 4 required off street parking spaces to 1, property located at 122 MILTON ST, Portage Township. Zoned SF2 Single Family & Two Family District.

#### ITEMS NOT REQUIRING A PUBLIC HEARING

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



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

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227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

March 28, 2018

Area Board of Zoning Appeals  
125 S. Lafayette Blvd, Suite 100  
South Bend, Indiana 46601

**RE: Area Board of Zoning Appeals Meeting**

Dear Board Members:

The following comments are being made concerning items to be heard at the Area Board of Zoning Appeals meeting on APRIL 11, 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.*

**1. Petition of Veldman Enterprises**

If the variance is granted, the staff recommends the sign be limited to 140 square feet, which is the maximum sign area allowed for an Integrated Center sign in the CB Community Business District. There are no practical difficulties or limitations that prevent them from installing new sign cabinets within the allowed maximum sign area.

**3. Petition of GW South Bend IN, LLC**

The staff recommends denial of the setback variance. This will be new construction with no practical difficulties that prevent the property owner from meeting the 15' minimum setback for the parking. The petitioner is providing 210% of the required parking.

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Eliminating the 11 parking spaces within the 15' setback would still provide 22 parking spaces more than required by the Ordinance. Eliminating the parking within the setback will also allow the petitioner the appropriate amount of space needed to address the perimeter landscaping, parking area screening, and foundation landscaping that are required for the site.

## **6. Petition of Brian S Henry**

The setback requirements are in place to assure that a property owner can maintain their structures without the need to use neighboring properties, and to protect neighboring properties from the encroachment of adjacent structures that could compromise the use and enjoyment of the property. The proposed 1' leaves little room for the construction and the maintenance of the new addition without encroaching on the neighboring property. If the variance is granted, staff recommends it be subject to a 3' minimum setback or obtaining a maintenance easement from the adjacent property owner. This would allow legal access to the side of the structure to take care of maintenance and safety-related issues.

## **10. Petition of Aldi LP**

If the variance is granted, the staff recommends the sign be limited to 100 square feet at 25' in height, which is the maximum sign area allowed for a sign in the CB Community Business District. Although the sign is technically an off-premise sign, there are no practical difficulties or circumstances that would justify a sign larger than what other commercial businesses are allowed in the area or in the CB Community Business 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*

## **11. Petition of BH Investments LLC**

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 use is residential. It 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 therein.*

Because of the residential nature of the proposed two-family dwelling, it would not affect 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 uses authorized therein.*

The proposed two-family dwelling is consistent with the character of the area and the SF2 Single Family & Two Family District. This area is in a medium density residential area with close proximity to a major commercial corridor.

(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 H1: Ensure that an adequate supply of housing is available to meet the needs, preference, and financial capability of households now and in the future.

Sincerely,



Angela M. Smith  
Deputy Director