

City of South Bend

BOARD OF ZONING APPEALS

AGENDA

Monday, March 7, 2022 - 4:00 p.m.

County-City Building

Fourth-Floor Council Chambers

www.tinyurl.com/sbbza

PUBLIC HEARING:

- Location:** 701 NILES AVE BZA#0101-22
Owner: 701 NILES LLC
Requested Action: Variance(s): 1) from the requirement to provide a bathroom for each room in a Hotel
Zoning: DT Downtown
- Location:** 110, 112, and 114 DAYTON ST BZA#0102-22
Owner: RANDOLPH L & TINA GILLEAND
Requested Action: Variance(s): 1) to allow an accessory structure in the established front yard; 2) from the maximum one detached accessory structure to four; and 3) from the 3' maximum fence height in an established front yard to 6'
Zoning: U1 Urban Neighborhood 1 and U3 Urban Neighborhood 3 (South Bend)
- Location:** 609 ST JOSEPH ST BZA#0103-22
Owner: MEMORIAL HOSPITAL OF SOUTH BEND INC
Requested Action: Variance(s): 1) From the required 12ft. parking lot setback along public street to a minimum of 9ft. along St. Joseph St. and to a minimum of 10ft. along Navarre St.
Zoning: UF Urban Neighborhood Flex

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact – February 7, 2022
2. Minutes – February 7, 2022
3. Other Business – Electronic Policy Resolution
4. Adjournment

NOTICE FOR HEARING AND SIGN IMPAIRED PERSONS

Auxiliary Aid or other services may be available upon request at no charge. Please give reasonable advance request when possible.

Property Information

Location: 701 NILES AVE
Owner: 701 NILES LLC

Project Summary

This building was previously used as the Madison Center for Children Hospital and was built in 1995. A proposed change of use from I to R-2 in portions of the building is planned.

Requested Action

Variance(s): 1) from the requirement to provide a bathroom for each room in a Hotel

Site Location



Staff Recommendation

Based on the additional information provided by the applicant during the public hearing on February 7, 2022, the staff recommends the Board deny the variance, as presented.

Proposed Site Plan



Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

Approving the variance would encourage the use of a property that is not in compliance with the Zoning Ordinance. Without going through the appropriate approval process, the request may be injurious to the public health, safety, 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 building is in an area with a mix of institutional uses, office space, and other nonresidential uses. While approving the variance may not affect the immediate area, it could have a significant impact on other developments in the area by setting a precedent for developing property that is not consistent with the intent and regulations of the Ordinance.

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

There are no practical difficulties that would prohibit the petitioner from installing the appropriate number of bathrooms and bringing the building into compliance with the Building and Zoning Standards for a hotel.

(4) The variance granted is the minimum necessary

Since there are no practical difficulties on the site, the variance requested is not the minimum necessary.

(5) The variance does not correct a hardship cause by a former or current owner of the property

The building was originally constructed as an institutional use. The property owner was aware of the constraints of the building when purchased. There are mechanisms by which the property owner could seek legal occupation of the building.

Analysis & Recommendation

Analysis: While details originally provided by the petitioner supported the interpretation of the use as a hotel and lead to the variance request, it is clear at this point that the actual (and intended) use is more consistent with a Group Residence. As such, the petitioner should apply for a Special Exception to allow a Group Residence in the DT Downtown District. To ensure the granting of the variance pertains to the *actual* use allowed within the building, it is premature to approve a variance for a hotel until such time as the Commercial Design Release reflects a hotel use consistent with the Ordinance.

Staff Recommendation: Based on the additional information provided by the applicant during the public hearing on February 7, 2022, the staff recommends the Board deny the variance, as presented.

Property Information

Location: 110, 112, and 114 DAYTON ST
Owner: RANDOLPH L & TINA GILLEAND

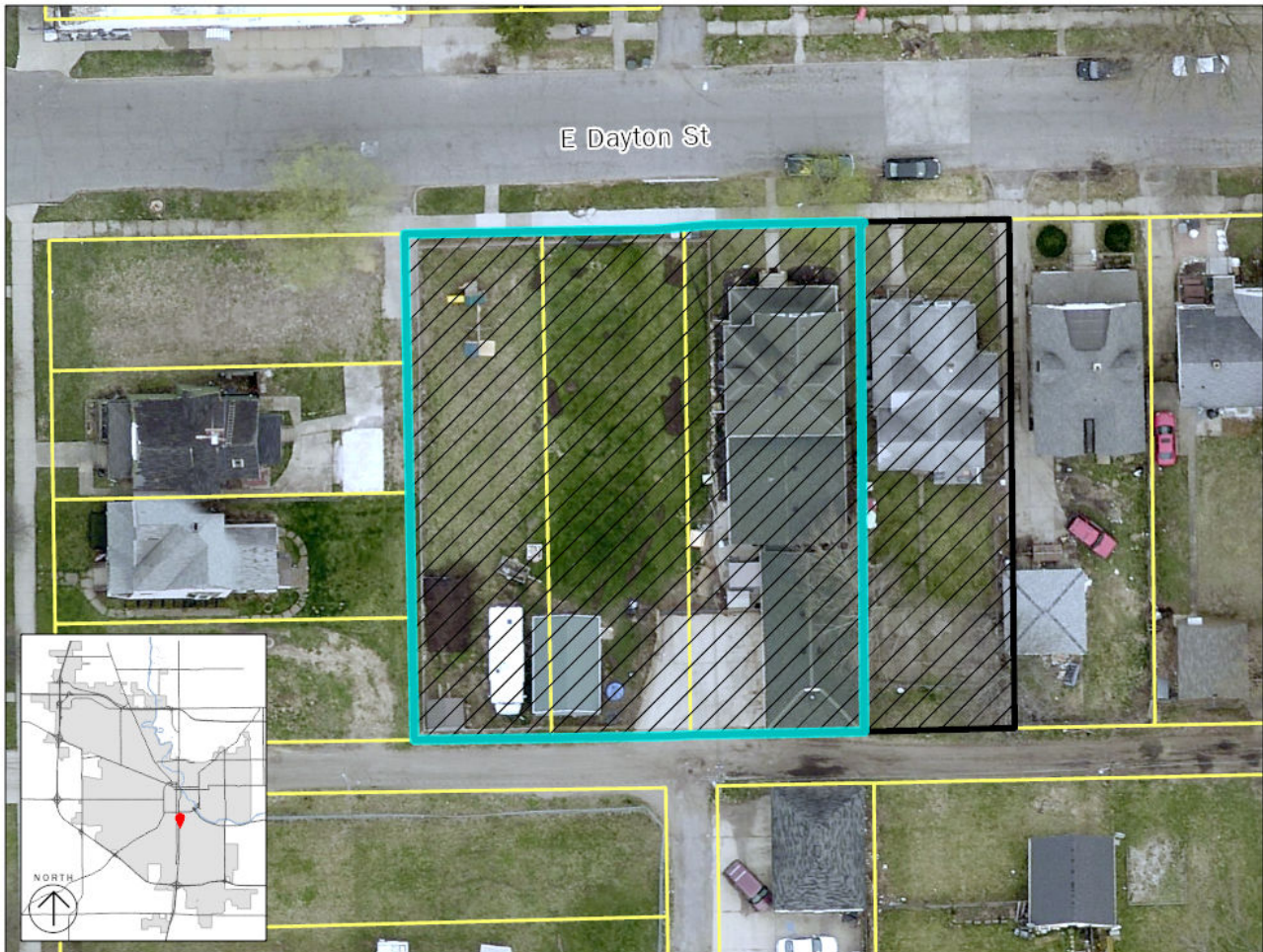
Project Summary

To allow an above ground pool in the front yard, 6' privacy fence, and multiple sheds on the property.

Requested Action

- Variance(s): 1) to allow an accessory structures in the established front yard
- 2) from the maximum one detached accessory structure to four
- 3) from the 3' maximum fence height in an established front yard to 6'

Site Location



Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented.

Proposed Site Plan



Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

The approval of this variance may not be injurious to the public health or safety of the community. However, allowing a fence and a pool in an established front yard at this height could be injurious to the community because it will be out of character and will not meet the intent of the ordinance. Pool locations are found in backyards where they can be secured and hidden from public view.

(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 use and value of the area adjacent to the property could be affected in an adverse manner if the variance was granted. Approving a fence that is 6' tall immediately adjacent to the sidewalk would be out of character for the area and contrary to the intent of the ordinance. Locating privacy fences adjacent to the public right-of-way could have a significant impact on surrounding properties. The construction of three separate sheds is also out of character for the area and contrary to the intent of the ordinance, having a significant impact on surrounding properties.

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

The strict application of the terms of this Chapter would not result in practical difficulties in the use of the property. The property is relatively large. None of the variances requested affect the ability to use the property for the intended use of residential. The requests are for accessory structures for which there is ample room on the property to locate in conformance with the ordinance. If the fence was moved back to the front building line, it could remain at its current height. The pool, as well, could be moved to the south and be in conformance with the zoning ordinance. There is not a practical difficulty that supports the increased number in detached accessory structures.

(4) The variance granted is the minimum necessary

Since there is no practical difficulty to overcome, the variance requested is not the minimum necessary. The petitioner could move both the fence and the pool to code compliant areas and still have full use of the property.

(5) The variance does not correct a hardship cause by a former or current owner of the property

There is no hardship on the property. Had the applicant applied for a fence, pool, and shed permit, they would have been made aware of the location restrictions and applicable ordinance.

Analysis & Recommendation

Analysis: There are no practical difficulties which would necessitate the approval of the variances requested. There is ample room on the property to properly locate the pool, deck, and fence. The property already has large attached garage, plus sufficient area to install a code compliant detached accessory structure. Had permits been pursued for any of the structures, the petitioner would have been aware of the limitations and regulations for the property.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board deny the variances as presented.

Property Information

Location: 609 ST JOSEPH ST
Owner: MEMORIAL HOSPITAL OF SOUTH BEND INC

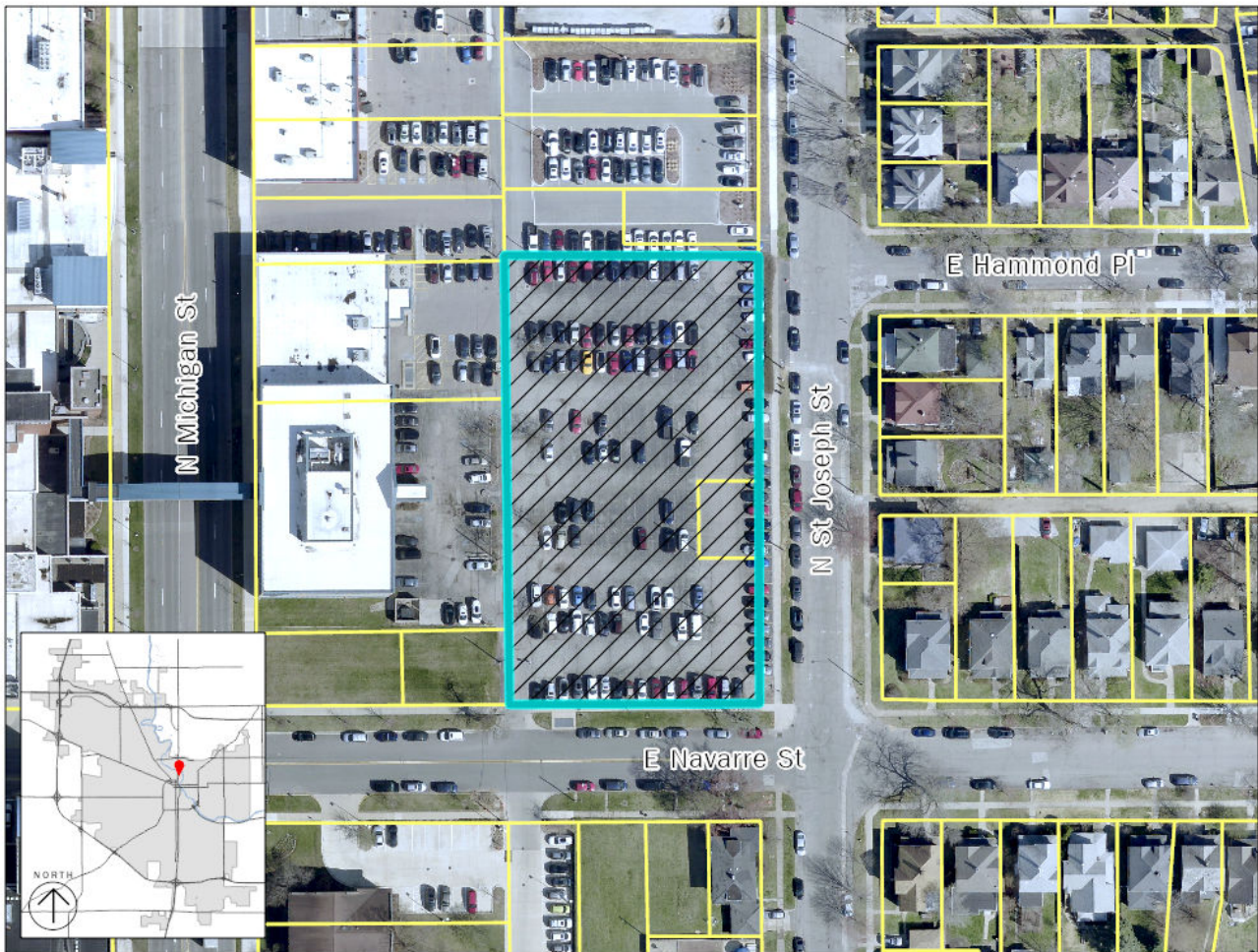
Project Summary

Petitioners desire to update their existing parking facility at the Northwest corner of Navarre St. and St. Joseph St. to have a consistent look for their parking facilities in this area.

Requested Action

Variance(s): 1) From the 12' minimum parking lot setback to 9' along St. Joseph St. and 10' along Navarre St.

Site Location

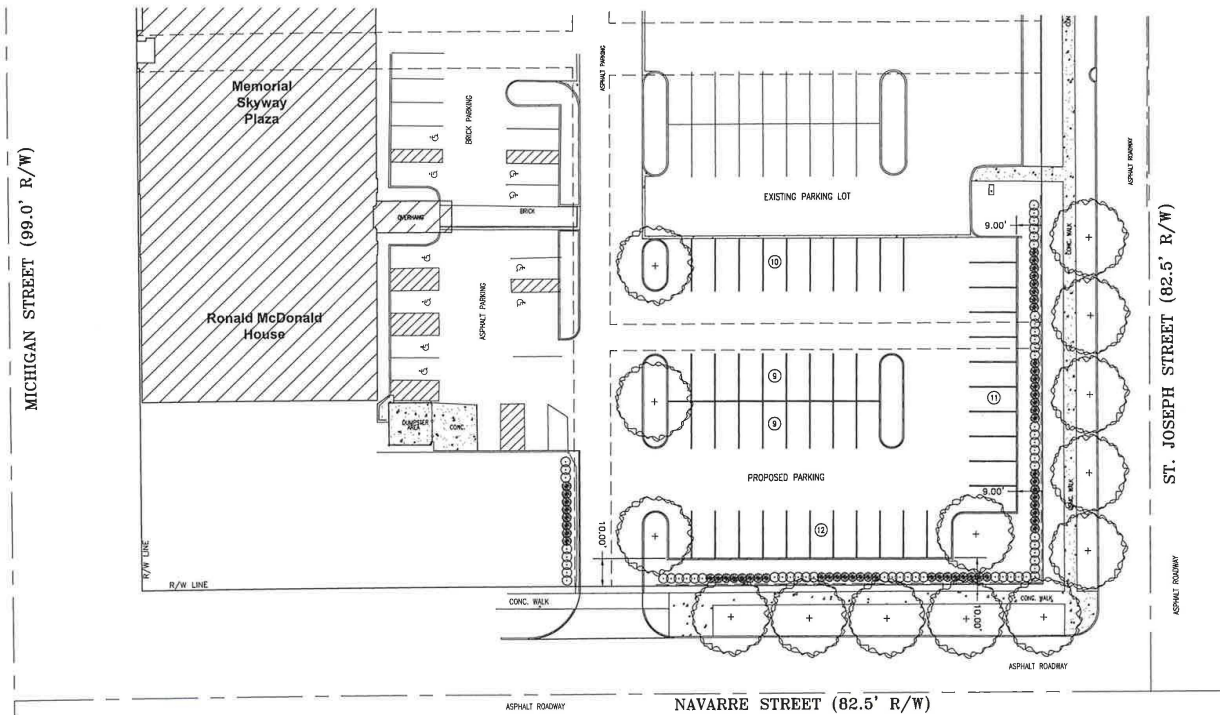


Staff Recommendation

Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance along St. Joseph Street and deny the variance along Navarre Street.

Proposed Site Plan

BZA SITE PLAN
 PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 3 EAST,
 CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



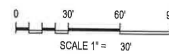
AERIAL PHOTOGRAPHY/LOCATION MAP

PROJECT SUMMARY:

PETITIONERS DESIRE TO UPDATE THEIR EXISTING PARKING FACILITY AT THE NORTHWEST CORNER OF NAVARRE STREET AND ST. JOSEPH STREET. THIS IS THE NEXT PHASE OF RENOVATION WORK ON THEIR PARKING AREAS FOR PATRONS. THEY WOULD LIKE TO HAVE A CONSISTENT LOOK FOR THEIR PARKING FACILITIES.

VARIANCE REQUEST:

- 1). FROM THE REQUIRED 12 FT. PARKING LOT SETBACK ALONG A PUBLIC STREET TO A MINIMUM OF 9 FT. ALONG ST. JOSEPH STREET AND TO A MINIMUM OF 10 FT. ALONG NAVARRE STREET.



| DATE | DRAWN BY: | REVISIONS | |
|----------|------------|-----------|----|
| 12/1/20 | GGS | DATE | BY |
| SCALE | DRAWN BY: | | |
| 1" = 30' | MJD | | |
| FILE # | PROJ. MGR: | | |
| 220103 | MJD | | |

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DHA
 SHEET 1 of 1

Criteria for Decision Making: Variance(s)

State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

The approval of this variance should not be injurious to the public health or safety of the community. The petitioner is moving the parking setback further back than it currently exists.

(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 use and value of the area adjacent to the property should not be affected in a substantially adverse manner. The property has existed as a parking lot for at least 25 years. Installing the proper buffering and the additional setback provided will lesson any adverse affect the property already has.

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

The strict application of the terms of this Chapter would result in reduction of the current use of the property. The petitioner is brining the property more into conformance with the zoning ordinance. The large right-of-way on St. Joseph Street will make the lot feel like it meets the required setbacks, even though it technically does not.

(4) The variance granted is the minimum necessary

The variance granted is the minimum necessary to allow for the continued use in line with the other recently updated parking areas on St. Joseph. The variance request on Navarre is not the minimum necessary. The northern most bay of parking exceeds parking standards by 2'. The parking lot could be adjusted in such a way to shift the lot to the north and meet the required setback on Navarre.

(5) The variance does not correct a hardship cause by a former or current owner of the property

The variance is not correcting a hardship caused by the property owner. When the parking lot was originally established, parking lot standards were different.

Analysis & Recommendation

Analysis: The parking lot already exists on this site. The petitioner desires to resurface and reconstruct the parking lot and is required to bring the site up to current zoning standards. Staff understands the desire to not lose current parking spaces. While the variance along St. Joseph Street is necessary to preserve the existing site layout, the parking bay on the north could be narrowed to remove the need for the variance along Navarre Street.

Staff Recommendation: Based on the information provided prior to the public hearing, the staff recommends the Board approve the variance along St. Joseph Street and deny the variance along Navarre Street.